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TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[Amdt. 1]

PART 472—WOOL

SUBPART—1957 PAYMENT PROGRAM FOR SHORN WOOL AND UNSHORN LAMBS (PULLED WOOL)

MISCELLANEOUS AMENDMENTS

The regulations issued by Commodity Credit Corporation and the Commodity Stabilization Service, containing the requirements of the 1957 Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool), 22 F. R. 593, are amended as follows:

1. In § 472.805, the letter "(a)" is inserted immediately after the heading thereof, and at the end of said section the following new paragraph (b) is added:

(b) The national average price received by producers for shorn wool marketed during the 1957 marketing year was 53.7 cents a pound, grease basis, which is 8.3 cents a pound below the incentive price of 62 cents. Therefore, the rate of incentive payment for the 1957 marketing year is 15.5 percent.

2. In § 472.811, the letter "(a)" is inserted immediately after the heading thereof, and at the end of said section the following new paragraph (b) is added:

(b) The rate of payment on unshorn lambs sold during the 1957 marketing year is 33 cents per hundredweight of live animals based on a difference of 8.3 cents a pound between the incentive price of 62 cents and the national average price of 53.7 cents a pound received by producers for shorn wool during the 1957 marketing year (§ 472.805 (b)).

3. Section 472.822 is deleted and the following is substituted therefor:

§ 472.822 *Deductions for promotion.* A deduction will be made from each shorn wool payment at the rate of 1 cent per pound of wool, grease basis, and from each unshorn lamb payment at the rate of 5 cents per hundredweight of live

animals, as announced in the Department's press release issued September 12, 1957. Those funds will be used to finance the advertising and sales promotion program approved by the Department of Agriculture pursuant to section 708 of the National Wool Act of 1954.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 702-709, 68 Stat. 910-912; 15 U. S. C. 714c, 7 U. S. C. 1781-1787, 1446)

Issued this 20th day of June 1958.

[SEAL] WALTER C. BERGER,
Executive Vice President, CCC,
and Administrator, CSS.

[F. R. Doc. 58-4812; Filed, June 24, 1958;
8:54 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Reg. 814.34, Amdt. 1]

PART 814—ALLOTMENT OF SUGAR QUOTAS

DOMESTIC BEET SUGAR AREA, 1958

Basis and purpose. This allotment order is issued under section 205 (a) of the Sugar Act of 1948, as amended (61 Stat. 922, as amended, hereinafter called the "act"), for the purpose of allotting the 1958 sugar quota for the Domestic Beet Sugar Area. The basis and purpose of the order are more fully explained below.

Effective date. Allotments established by this order are larger than the allotments established in S. R. 814.34. To afford adequate opportunities to plan marketings and to market the additional quantities of sugar in an orderly manner, it is imperative that this order be effective as soon as possible. Accordingly, it is hereby found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237), is impracticable and contrary to the public interest and, consequently, this order shall be effective when published in the FEDERAL REGISTER.

Preliminary statement. Section 205 (a) of the act requires the Secretary to allot a quota whenever he finds that the allotment is necessary, among other

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CFR SUPPLEMENTS

(As of January 1, 1958)

The following Supplements are now available:

Title 7, Parts 210-899 (\$2.50)

Title 21 (\$0.70)

Title 49, Parts 71-90 (\$0.55)

Previously announced: Title 3, 1957 Supp. (\$0.40); Titles 4-5 (\$1.00); Title 6 (\$1.50); Title 7, Parts 1-209 (\$2.25), Parts 900-959 (\$1.00); Title 8, Rev. Jan. 1, 1958 (\$3.25); Title 9 (\$0.75); Titles 10-13 (\$1.00); Title 14, Parts 1-39 (\$0.50), Parts 40-399 (\$0.40), Part 400 to end (\$1.50); Title 16 (\$1.75); Title 17 (\$0.65); Title 18 (\$0.50); Title 19 (\$0.70); Title 20 (\$1.00); Titles 22-23, Rev. Jan. 1, 1958 (\$4.25); Title 24 (\$1.00); Title 25, Rev. Jan. 1, 1958 (\$4.50); Title 26, 1957 Added Pocket Parts: Parts 1-79 (\$0.25), Parts 80-169 (\$0.25), Parts 170-182 (\$0.20); Title 26 (1954), Parts 1-19, Rev. Jan. 1, 1958 (\$3.00), Parts 20-221, Rev. Jan. 1, 1958 (\$2.25); Titles 28-29 (\$1.50); Titles 30-31 (\$1.50); Title 32, Parts 1-399 (\$1.25), Parts 400-699 (\$1.75), Parts 700-799 (\$0.60), Parts 800-1099 (\$0.65), Part 1100 to end (\$0.50); Title 33 (\$1.50); Titles 35-37 (\$1.00); Title 38 (\$0.40); Title 39 (\$0.60); Titles 40-42 (\$1.00); Title 43 (\$0.70); Titles 44-45, 1957 Added Pocket Part (\$0.35); Title 46, Parts 1-145 (\$0.75), Parts 146-149, Rev. Jan. 1, 1958 (\$5.50); Title 49, Parts 1-70 (\$0.70), Parts 91-164, Rev. Jan. 1, 1958 (\$5.00), Part 165 to end (\$0.75)

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things to (1) prevent disorderly marketing of sugar or liquid sugar and (2) afford all interested persons an equitable opportunity to market sugar or liquid sugar. Section 205 (a) also requires that such allotment be made after such hearing and upon such notice as the Secretary may prescribe.

Pursuant to the applicable rules of practice and procedure a preliminary finding was made that allotment of the quota is necessary and a notice was published on January 25, 1958 (23 F. R. 514) of a public hearing to be held at Scottsdale, Arizona, in the Hotel Valley Ho, on February 5, 1958, at 9:00 a. m., m. s. t., for the purpose of receiving evidence to enable the Secretary (1) to affirm, modify or revoke the preliminary findings of necessity for allotments, (2) to establish a fair, efficient and equitable allotment of the 1958 quota for the Domestic Beet Sugar Area for the calendar year 1958, (3) to revise or amend the allotment of the quota for the purposes of (a) allotting any increase or decrease in the quota, (b) prorating any deficit in the allotment for any allottee, and (c) substituting final data for estimates of such data and, (4) to provide for (a) transfer of allotments and (b) applicability of certain marketings to allotments. The hearing was held at the time and place specified in the notice and testimony was given with respect to all issues referred to in the hearing notice.

Based upon the record of the hearing and pursuant to the applicable rules of practice and procedure, the Administrator, Commodity Stabilization Service, United States Department of Agriculture, on May 17, 1958, filed a recommended decision and proposed order with respect to the allotment of the 1958 sugar quota for the Domestic Beet Sugar Area with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C. Notice of such filing and opportunity to file exceptions thereto (23 F. R. 3357) was given to all interested persons in the manner provided in the rules of practice and procedure.

In arriving at the findings, conclusions, and regulatory provisions of this order, all proposed findings and conclusions were carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that findings and conclusions proposed by interested persons are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

Basis for findings and conclusions. Section 205 (a) of the act reads in pertinent part as follows:

*** Allotments shall be made in such manner and in such amounts as to provide

a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person and the ability of such persons to market or import that portion of such quota or proration thereof allotted to him * * *

The record of the hearing indicates that the prospective supply of domestic beet sugar available for marketing in 1958 exceeds the quota for that area to an extent that allotment of the quota is necessary (R. 7).

All three factors specified in the provision of the law quoted above have been considered by the formula on which this allotment of the 1958 Domestic Beet Sugar Area quota is based (R. 17). The formula follows the proposal made in the record and as recommended to the Government by an industry task force (R. Ex. 7) except for minor differences set forth below.

The allotment method as recommended by the Task Force determined allotments in hundredweight of refined sugar without making provision for determining allotments in short tons, raw value, and would determine allotments of any quota by the full application of the formula (R. Ex. 7). The Government witness proposed that a percentage distribution of the allotments should be determined in conjunction with the allotment method and that such percentage distribution, to be changed only when final data are substituted for estimated data, be applied to the quota to be allotted to determine allotments in short tons, raw value (R. 10). The testimony in this regard leaves some uncertainty regarding the quota level to be used in determining the percentage distribution. Such uncertainty is significant to the extent that the percentage distribution of allotments would differ slightly if based on different quotas, and because the quota for the area is subject to change prior to issuance of an order based on this proceeding. The method herein adopted provides for the determination of allotments in short tons, raw value, as required by the act, and provides for full application of the formula in determining allotments of any quota. This method avoids the necessity of first computing allotments in hundredweight or deriving a percentage distribution of allotments and results in final 1958 allotments unaffected by the quota level of a previous action.

Production of sugar from 1957-crop sugar beets, exclusive of known quantities to which proportionate shares did not pertain, is the most up-to-date measure of the "processings" factor available to represent the operations for a full year for each processor. A weighting of 75 percent to the processing factor in determining base allotments appears consistent with the importance of this factor under 1958 circumstances when sugar beet acreages are, and have been for several years, subject to limitations (R. 17). Measuring and weighting the factor in this way appears appropriate

when considered in conjunction with the allotment method herein adopted and the provisions applicable to 1958.

The factor "past marketings" when measured by the 1953-57 average annual marketings within allotments and weighted 25 percent in determining base allotments and when considered in conjunction with other provisions of the allotment method herein adopted, which are applicable to 1958, contributes to an orderly rate of change in marketing patterns (R. 18). The base period is long enough to incorporate a variety of experiences representative of the sharing of marketings during the immediate past.

The allotment method adopted herein for giving consideration to the "Ability to market" factor recognizes that ability is partially reflected in the other two factors, and additional consideration is appropriately given by adjusting base allotments to reflect January 1, 1958, inventory imbalances as set forth in detail in the findings (R. 19).

The allotment method as set forth in the findings recognizes the "hardship" provision of section 205 (a) of the act by providing for an alternative measure of processings to be used for any processor whose most recent crop was smaller than 85 percent of the preceding crop, adjusted for industry-wide change. Furthermore, the method provides that any processor subject to such "hardship" shall be exempted from adjustments applicable to base allotments that would otherwise result from inventory imbalances. A further provision would limit any processor's adjustment for inventory imbalance to 10 percent of his base allotment (R. 15, 17). These provisions are not expected to be applicable under 1958 circumstances (R. 17; Ex. 8) and no direct objection or exception was taken to them.

One processor urged that additional consideration be given the hardship provision of the act. He proposed that if any processor's marketings for one of the five years used in determining average marketings was less than 50 percent of such average, only the four years of largest marketings should be used in determining his average marketings (R. 41; Brief of National Sugar Manufacturing Co.). Another processor objected to the formula contending that a 75 percent weighting of processings would encourage over-production, that past marketings should never be weighted as low as 25 percent and favored giving a weighting of 25 percent to processings and 75 percent to past marketings. That processor also suggested that the Secretary set aside 100,000 bags to be used in the case of hardships (Brief of Franklin County Sugar Co.). In no case were the above modifications of the allotment method, as proposed in the hearing, supported by other testimony and in no case was it convincingly demonstrated that such proposed modification would provide more fair, efficient and equitable allotments in 1958.

All findings and conclusions dealing with issues not discussed above are based on single proposals in the record from which there were no dissents.

Findings and conclusions. On the basis of the record of the hearing, I hereby find and conclude that:

(1) For the calendar year 1958 Domestic Beet Sugar processors will have available for marketing from 1957-crop sugar beets about 1,660,000 short tons, raw value, of sugar. This quantity of sugar, together with production of sugar from 1958-crop beets, will result in a supply of sugar available for marketing in 1958 sufficiently in excess of the anticipated 1958 quota for the Domestic Beet Sugar Area to cause disorderly marketing and prevent some interested persons from having equitable opportunities to market sugar.

(2) The allotment of the 1958 Domestic Beet Sugar Area quota for consumption within the continental United States is necessary to prevent disorderly marketing and to afford all interested persons equitable opportunities to market sugar processed from sugar beets in that area.

(3) Processings of sugar from 1957-crop sugar beets, by each processor, exclusive of known quantities of sugar produced from sugar beets to which proportionate shares did not pertain is a fair, efficient and equitable measure of processings of sugar from the 1957-crop of sugar beets to which proportionate shares pertained.

(4) To assure a fair, efficient and equitable distribution of the 1958 Domestic Beet Sugar Area quota for consumption within the continental United States, the three factors specified in section 205 (a) of the act shall be given consideration and allotments determined as follows, based on data in the hearing record and final data of which official notice will be taken:

(a) Base allotments shall first be determined by giving consideration to the processing and past marketing factors as follows:

(i) The factor processings from proportionate shares shall be measured by each processor's production of sugar from 1957-crop sugar beets, exclusive of known quantities of sugar produced from non-proportionate share beets, or the alternative measure provided for herein, expressed as a percentage of the total of such processings for all processors, and weighted by 75 percent: *Provided*, That in recognition of the "hardship" provision in section 205 (a) of the act, an alternative measure derived as follows shall be used for any processor when the quantity so derived exceeds such processor's actual 1957-crop processings: $(\text{Processor's 1956-crop processings}) \times (\text{Industry total 1957-crop processings} \div \text{Industry total 1956-crop processings}) \times 85$ percent, except that such alternative measure shall not exceed 125 percent of such processor's actual 1957-crop processings.

(ii) The factor past marketings shall be measured by each processor's average annual marketings within his allotment for the years 1953 through 1957, expressed as a percentage of the total of the measure for all processors, and weighted by 25 percent.

(iii) The total of the percentages resulting from (i) and (ii), above, for each processor shall be multiplied by the Domestic Beet Sugar Area quota, in short tons, raw value, to determine his base allotment, in short tons, raw value.

(b) The factor "ability to market" shall be given consideration, in addition to that which is inherent in the consideration given to the other factors, by adjusting the base allotments, as determined in (a) (iii), above, for January 1, 1958, inventory imbalances to the extent and as determined below: *Provided, however*, That any processor subject to the "hardship" provision of (4) (a) (i), above, shall be exempted from any such adjustment, that data pertinent to any such processor shall be excluded from the computations for determining adjustments, and that the adjustment applicable to any other processor shall not exceed 10 percent of his base allotment.

(i) Compute, in terms of hundredweight of refined sugar, the "plus" or "minus" January 1, 1958 inventory imbalance for each processor, by algebraically subtracting from his January 1, 1958 effective inventory his January 1, 1953-57 average effective inventory adjusted proportionately so that the total of such adjusted inventories of all processors subject to adjustments are equal to the total January 1, 1958 effective inventories of all such processors.

(ii) The "plus" adjustment applicable to the base allotment for each processor having a "plus" inventory imbalance, as determined in (i), shall be the quantity that such imbalance exceeds 10 percent of his adjusted January 1, 1953-57 average effective inventory and such excess multiplied by 25 percent.

(iii) The "minus" adjustments applicable to the base allotments for processors having "minus" inventory imbalances shall be computed by prorating the total of the "plus" adjustments, as determined in (ii), among such processors on the basis of their "minus" inventory imbalances.

(iv) The adjustments determined pursuant to (ii) and (iii), representing hundredweight of refined sugar, shall be multiplied by the factor 0.0535 to express such adjustments in short tons, raw value.

(c) Allotments for individual processors, in short tons, raw value, shall be the base allotment quantity as determined in (a) (iii) adjusted upward or downward, respectively, on the basis of "plus" or "minus" adjustments as determined in (b) (iv). Such quantities when divided by 0.0535 express allotments in the equivalent hundredweight of refined sugar.

(5) The quantities of sugar and the percentages referred to in paragraph (4), above, based on data involving estimates for 1957 processings, 1957 marketings, and January 1, 1958, inventories, which shall be used to establish allotments pending availability and substitution of final data for such estimates, are set forth in the following table, applied to the Domestic Beet Sugar Area quota of 2,184,484 short tons, raw value.

Processors	Processings of sugar from 1957 crop beets		Average marketings within allotments 1955-57		Base allotments		January 1 effective inventories hundredweight refined		Adjustments to base allotments		Processor allotments short tons raw value (col. 6+ or - col. 11)
	Hundred-weight refined	Percent of total	Hundred-weight refined	Percent of total	Percent of total (col. 2X 0.75 + col. 4X0.25)	Short tons raw value (col. 5X quota)	1958	1958-57 average adjusted to col. 7 total	1958 inventory imbalances (col. 7 - col. 8)	Hundred-weight refined	Short tons raw value (col. 10 X 0.6533)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Amalgamated Sugar Co., The.....	5,460,000	12.1636	4,895,333	13.1191	13.1075	286,331	3,947,349	3,822,638	+124,711	0	286,331
American Crystal Sugar Co.....	5,349,414	12.0809	4,912,038	14.0232	13.2414	288,356	4,261,411	4,777,166	-515,755	-35,230	-1,885
Buckeye Sugars, Inc.....	191,183	.4639	138,397	.4522	.4610	10,070	147,197	141,078	+6,119	0	10,070
Franklin County Sugar Co.....	265,200	.4979	180,819	.5162	.5025	10,977	120,984	106,488	+14,496	+902	+51
Great Western Sugar Co., The.....	10,138,369	24.6017	8,363,648	23.8771	24.4205	533,462	7,953,936	7,847,401	+106,535	0	533,462
Holly Sugar Corp.....	6,600,000	16.0155	5,637,224	16.0656	16.0350	330,282	5,194,461	5,269,772	-75,311	-5,144	-275
Layton Sugar Co.....	231,235	.5011	144,699	.4131	.5241	11,449	207,322	137,308	+70,014	+14,121	+755
Menominee Sugar Co.....	245,462	.5056	221,336	.6319	.6047	13,210	114,656	72,966	+41,690	+8,308	+460
Michigan Sugar Co.....	1,360,311	3.3009	1,180,636	3.3877	3.3226	72,582	980,584	980,584	+1,612	0	72,582
Monitor Sugar Div. of Robert Gage Coal Co.....	618,649	1.5012	552,893	1.5784	1.5205	33,218	423,583	453,220	-29,637	-1,888	-101
National Sugar Mfg. Co., The.....	126,373	.3067	90,796	.2592	.2948	6,440	94,660	68,844	+25,816	+4,733	+253
Northern Ohio Sugar Co.....	567,296	1.3766	408,463	1.1661	1.3280	28,922	339,454	228,908	+110,546	+22,739	+1,217
Spreckels Sugar Co.....	4,648,319	11.2796	3,727,486	10.6415	11.1201	242,917	3,175,863	2,872,414	+303,449	+4,652	+217
Union Sugar Div., Consolidated Foods Corp.....	1,321,638	3.0924	1,406,263	4.0147	3.7730	82,421	1,147,688	1,303,747	-156,059	-10,660	-570
Utah-Idaho Sugar Co.....	4,006,621	9.7224	3,441,822	9.8290	9.7483	212,950	3,042,854	3,070,280	-27,426	-2,283	-122
Total.....	41,210,074	100.0000	35,027,870	100.0000	100.0000	2,184,484	31,155,814	31,155,814	±808,188	±55,205	±2,953

¹ Determined as follows: Plus (+) adjustments = (Extent (+) quantity in col. 9 exceeds 10 percent of col. 8) X (25 percent); minus (-) adjustments = the total of (-) adjustments in col. 10, amounting to 55,205 hundredweight prorated to processors on the basis of (-) quantities in col. 9.

(6) The order shall be revised without further notice or hearing for the purpose of (a) substituting final data for estimated data on 1957-crop production, 1957 marketings and January 1, 1958, inventories used in measuring the factors when such data become part of the official records of the Department, (b) allotting any quantity of an allotment which may be released by an allottee to other allottees able to utilize additional allotment in proportion to the established allotments of such allottees when the written notification to the Director of the Sugar Division of such release becomes a part of the official records of the Department, (c) allotting any area deficits which increase the 1958 Domestic Beet Sugar Area quota for consumption within the continental United States and (d) revising allotments to give effect to any change in the quota for the area due to action pursuant to sections 201 and 202 (a) of the act. In making revisions to give effect to quota changes indicated under (c) and (d), above, allotments shall be computed in the same manner as is provided for in this order.

(7) Official notice will be taken of (a) final data for 1957-crop processings, 1957 marketings and January 1, 1958, inventories that become a part of the official records of the Department, (b) any written notice to the Sugar Division by an allottee that he is unable to fill part of his allotment when the notification becomes a part of the official records of the Department, and (c) any regulation issued by the Secretary which changes the 1958 Domestic Beet Sugar Area quota.

(8) To assure that the marketing of sugar or liquid sugar is charged against the proper allotment, it is necessary that the order provide for charges to allotments of processors who sell sugar beets, or molasses derived from sugar beets, but retain and process such sugar beets or molasses into sugar or liquid sugar for delivery to or for the account of the buyer.

(9) Under the circumstances prevailing in 1958, allotments established in the foregoing manner and in the quantities

set forth in the order provide a fair, efficient and equitable distribution of any 1958 Domestic Beet Sugar Area quota that may be established for consumption within the continental United States and meet the requirements of section 205 (a) of the act.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered that § 814.34 be amended to read as follows:

§ 814.34 Allotment of the 1958 sugar quota for the Domestic Beet Sugar Area—(a) Allotments. The 1958 Domestic Beet Sugar Area quota for consumption within the continental United States of 2,184,484 short tons, raw value, is hereby allotted to the extent shown in this section, to the following processors in the amounts which appear opposite their respective names:

Processor	Allotments	
	Short tons raw value	Equivalent in hundred-weight refined beet sugar
Amalgamated Sugar Co., The.....	286,331	5,351,981
American Crystal Sugar Co.....	287,371	5,371,421
Buckeye Sugars, Inc.....	10,070	188,224
Franklin County Sugar Co.....	11,028	205,131
Great Western Sugar Co., The.....	533,462	9,971,252
Holly Sugar Corp.....	350,007	6,542,187
Layton Sugar Co.....	12,204	228,112
Menominee Sugar Co.....	13,670	255,514
Michigan Sugar Co.....	72,582	1,356,673
Monitor Sugar Div., Robt. Gage Coal Co.....	33,114	618,953
National Sugar Manufacturing Co., The.....	6,693	125,103
Northern Ohio Sugar Co.....	30,139	563,346
Spreckels Sugar Co.....	243,134	4,544,661
Union Sugar Div., of Consolidated Foods Corp.....	81,851	1,529,925
Utah-Idaho Sugar Co.....	212,925	3,978,094
Any other person.....	0	0
Total.....	2,184,484	40,831,477

(b) Marketing of sugar beets and molasses. If sugar beets or molasses derived from sugar beets are sold by a processor but retained and processed by such processor and the sugar or liquid sugar processed therefrom is delivered to

or for the account of the buyer of the sugar beets and molasses, the marketing of such sugar or liquid sugar shall, at the time such sugar or liquid sugar is so delivered, be charged to the allotment of the processor who sold and processed such sugar beets or molasses.

(c) Marketing limitations. Marketings shall be limited to allotments as established herein subject to the prohibitions and provisions of § 816.3 of this chapter (23 F. R. 1943).

(d) Delegation. The Director of the Sugar Division, Commodity Stabilization Service, U. S. Department of Agriculture, is hereby authorized to revise the allotments established under this order without further notice or hearing in accordance with the findings and conclusions heretofore made, to give effect to (1) the substitution of final data for estimates, (2) the reallocation of any quantity of an allotment released by an allottee and (3) any change in the Domestic Beet Sugar Area quota.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interpret or applies sec. 205, 206; 61 Stat. 926, as amended, 928; 7 U. S. C. 1115, 1119)

Done at Washington, D. C., this 18th day of June 1958.

[SEAL]

TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 58-4749; Filed, June 24, 1958; 8:45 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

FINDINGS AND DETERMINATIONS RELATIVE TO EXPENSES TO BE INCURRED AND FIXING OF RATES OF ASSESSMENT FOR 1958-59 SEASON

On June 5, 1958, notice of proposed rule making was published in the FEDERAL REGISTER (23 F. R. 3930) regarding

the expenses and the fixing of the rates of assessment for the 1958-59 season pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). After consideration of all relevant matters presented, including the proposals which were submitted by the Control Committee (established pursuant to said amended marketing agreement and order) and set forth in the aforesaid notice, it is hereby found and determined that:

§ 936.212 *Expenses and rates of assessment for the 1958-59 season*—(a) *Expenses.* The expenses likely to be incurred by the Control Committee during the 1958-59 season beginning March 1, 1958, and ending February 28, 1959, both dates inclusive, for the maintenance and functioning of such committee and the respective commodity committees, established pursuant to the provisions of the aforesaid amended marketing agreement and order, are as follows:

- (1) Bartlett pears, \$23,077.78;
- (2) Early varieties of plums, \$17,628.90;
- (3) Late varieties of plums, \$21,042.73;

and

- (4) Elberta peaches, \$20,595.59.

(b) *Rates of assessment.* The following rates of assessment, which each handler shall pay in accordance with the applicable provisions of said amended marketing agreement and order, are hereby fixed as the respective handler's pro rata share of the aforesaid expenses:

- (1) 1 cent (\$0.01) per standard western pear box of Bartlett pears, or its equivalent in other containers or in bulk;

- (2) 1 cent (\$0.01) per standard four-basket crate of early varieties of plums, or its equivalent in other containers or in bulk;

- (3) 1 cent (\$0.01) per standard four-basket crate of late varieties of plums, or its equivalent in other containers or in bulk, and

- (4) 4½ mills (\$0.0045) per California peach box of Elberta peaches, or its equivalent in other containers or in bulk.

(c) It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that

(1) the respective rates of assessment are applicable to all fresh Bartlett pears, early varieties of plums, late varieties of plums, and Elberta peaches shipped during the 1958-59 season; (2) shipments of plums have already commenced and shipments of Elberta peaches are expected to begin on or about June 25, 1958, with shipments of Bartlett pears following on or about July 15, 1958; (3) the provisions hereof do not impose any obligation on a handler until such handler ships plums, Elberta peaches or Bartlett pears; and (4) it is essential that the specification of the assessment rates be issued immediately so that the aforesaid assessment may be collected

and thereby enable the said Control Committee and commodity committees to perform their duties and functions in accordance with said amended marketing agreement and order.

(d) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order. The terms hereof shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: June 19, 1958.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-4782; Filed, June 24, 1958; 8:47 a. m.]

PART 937—NECTARINES GROWN IN CALIFORNIA

ORDER REGULATING HANDLING

Sec. 937.0 Findings and determinations.

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AUTHORITY: §§ 937.0 to 937.71 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c. Interpret or apply sec. 401, 68 Stat. 907, as amended; 7 U. S. C. 608e-1.

§ 937.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and the applicable rules of practice and procedure, as amended, effective thereunder (Part 900 of this chapter), a public hearing was held at Fresno, California, March 19-21, 1958, upon a proposed marketing agreement and a proposed marketing order regulating the handling of nectarines grown in California. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) This order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) This order regulates the handling of nectarines grown in the production area in same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement upon which a hearing has been held;

(3) This order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of nectarines grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of nectarines grown in the production area as defined in the order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is hereby found on the basis hereinafter indicated that good cause exists for making the provisions of this order effective not later than the date of publication in the FEDERAL REGISTER; and that it would be contrary to the public interest to postpone such effective date until 30 days after publication (60 Stat. 237; 5 U. S. C. 1001 et seq.). As soon as practical after such effective time it will be necessary to establish the Nectarine Administrative Committee, the agency charged with administration of the program. Subsequently, and prior to imposition of regulations, it will be necessary for the com-

mittee and the Secretary to initiate, and complete, various actions of both organizational and regulatory nature, including the formulation and promulgation of rules and regulations to govern operations under the program. The shipment of nectarines is already in progress, and for all practical purposes the entire crop is shipped by mid-September. Hence, for the program to be of maximum benefit during the 1958-59 shipping season the order should be made effective as soon as practicable. The provisions of the order are well known to handlers of nectarines since the public hearing in connection with the order was completed March 21, 1958, and the recommended decision and the final decision were published in the *FEDERAL REGISTER* on May 6, 1958 (23 F. R. 3007), and May 28, 1958 (23 F. R. 3686), respectively. Copies of the regulatory provisions of this order were made available to all known interested parties; such provisions do not place any restrictions on handlers until regulations are issued thereunder and shipment of nectarines takes place; and, therefore, compliance with such provisions will not require advance preparation on the part of persons subject thereto which cannot be completed prior to the effective date of regulation pursuant hereto.

(c) *Determinations.* It is hereby determined that:

(1) A marketing agreement regulating the handling of nectarines grown in California, upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the nectarines covered by this order) who, during the period beginning March 1, 1957, and ending February 28, 1958, both dates inclusive, handled not less than 50 percent of the volume of nectarines covered by this order; and

(2) The issuance of this order is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the determined representative period (March 1, 1957, through February 28, 1958) were engaged, within the production area specified in this order, in the production of nectarines for market; such producers having also produced for market at least two-thirds of the volume of nectarines represented in such referendum.

It is, therefore, ordered, That, on and after the effective date hereof, the handling of nectarines grown in the said production area shall be in conformity to, and in compliance with, the terms and conditions of this order; and such terms and conditions are as follows:

DEFINITIONS

§ 937.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 937.2 *Act.* "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as

amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

§ 937.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 937.4 *Production area.* "Production area" means the State of California.

§ 937.5 *Nectarines.* "Nectarines" means all varieties of *Prunus Amygdalus Nectarina*, commonly called nectarines, grown in the production area.

§ 937.6 *Varieties.* "Varieties" means and includes all classifications or subdivisions of nectarines.

§ 937.7 *Fiscal period.* "Fiscal period" is synonymous with fiscal year and means the 12-month period beginning on March 1 of one year and ending on the last day of February of the following year or such other period as the committee, with the approval of the Secretary, may prescribe.

§ 937.8 *Committee.* "Committee" means the Nectarine Administrative Committee established pursuant to § 937.20.

§ 937.9 *Grower.* "Grower" is synonymous with producer and means any person who produces nectarines for the fresh market and who has a proprietary interest therein.

§ 937.10 *Handler.* "Handler" is synonymous with shipper and means any person (except a common or contract carrier transporting nectarines owned by another person) who handles nectarines.

§ 937.11 *Handle.* "Handle" and ship are synonymous and mean to sell, consign, deliver, or transport nectarines, or to cause nectarines to be sold, consigned, delivered, or transported, between the production area and any point outside thereof, or within the production area: *Provided*, That the term handle shall not include the sale of nectarines on the tree, the transportation within the production area of nectarines from the orchard where grown to a packing facility located within such area for preparation for market, or the delivery of such nectarines to such packing facility for such preparation.

§ 937.12 *District.* "District" means the applicable one of the following described subdivisions of the production area or such other subdivision as may be prescribed pursuant to § 937.31:

(a) "District 1" shall include the counties of Fresno and Madera.

(b) "District 2" shall include the counties of Tulare and Kings.

(c) "District 3" shall include the counties of Merced and Stanislaus.

(d) "District 4" shall include all of the production area lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino.

(e) "District 5" shall include the balance of the production area.

§ 937.13 *Pack.* "Pack" means the specific arrangement, size, weight, count, or grade of a quantity of nectarines in a

particular type and size of container, or any combination thereof.

§ 937.14 *Container.* "Container" means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of nectarines.

§ 937.15 *Marketing season.* "Marketing season" means the period beginning on May 1 and ending on November 30 of any year.

ADMINISTRATIVE BODY

§ 937.20 *Establishment and membership.* There is hereby established a Nectarine Administrative Committee consisting of eight members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate. The members and their alternates shall be growers or employees of growers. Three of the members and their respective alternates shall be producers of nectarines in District 1. Two of the members and their respective alternates shall be producers of nectarines in District 2. One of the members and his alternate shall be producers of nectarines in District 3; one member and his alternate shall be producers of nectarines in District 4; and one member and his alternate shall be producers of nectarines in District 5.

§ 937.21 *Term of office.* The term of office of each member and alternate member of the committee shall be for one year beginning March 1 and ending on the last day of February. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ 937.22 *Nomination—(a) Initial members.* Nominations for each of the initial members, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by the committee responsible for promulgation of this part. Such nominations may be made by means of group meetings of the growers concerned in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in, this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided in § 937.20.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than February 15 of each year, a meeting or meetings of the growers in each district for the purpose of designating nominees for successor members and alternate members of the committee. These meetings shall be supervised by the committee which shall prescribe such procedure as shall be reasonable and fair to all persons concerned. Such procedure shall include the subdivision of multiple member districts into elec-

tion districts designed to provide equitable distribution of representation.

(2) Only growers who are present at such nomination meetings, or represented at such meetings by duly authorized employees, may participate in the nomination and election of nominees for members and their alternates. Each such grower, including employees of such grower, shall be entitled to cast but one vote for one nominee for member and one vote for one nominee for alternate member in the district or election district in which he produces nectarines.

(3) A particular grower, including employees of such grower, shall be eligible for membership as principal or alternate to fill only one position on the committee.

§ 937.23 Selection. From the nominations made pursuant to § 937.22, or from other qualified persons, the Secretary shall select the eight members of the committee and an alternate for each such member.

§ 937.24 Failure to nominate. If nominations are not made within the time and in the manner prescribed in § 937.22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 937.20.

§ 937.25 Acceptance. Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 937.26 Vacancies. To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in §§ 937.22 and 937.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 937.20.

§ 937.27 Alternate members. An alternate member of the committee, during the absence of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event both a member of the committee and his alternate are unable to attend a committee meeting, the member or the committee may designate any other alternate member from the same district to serve in such member's place and stead.

§ 937.30 Powers. The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;
(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 937.31 Duties. The committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine compensation and to define the duties of each;

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a competent public accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to nectarines;

(i) To submit to the Secretary the same notice of meetings of the committee as is given to its members;

(j) To submit to the Secretary such available information as he may request;

(k) To investigate compliance with the provisions of this part;

(l) With the approval of the Secretary, to redefine the districts into which the production area is divided and to reapportion the representation of any district on the committee: *Provided*, That any such changes shall reflect, insofar as practicable, shifts in nectarine production within the districts and the production area.

§ 937.32 Procedure. (a) Six members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require the concurring vote of the majority of those present: *Provided*, That any action of the committee to recommend regulations pursuant to §§ 937.50 to 937.55 shall require at least five concurring votes.

(b) The committee may vote by telephone, telegraph, or other means of communication, and any votes so cast shall be confirmed promptly in writing:

Provided, That if an assembled meeting is held, all votes shall be cast in person.

§ 937.33 Expenses and compensation. The members of the committee, and alternates when acting as members, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part and may also receive compensation, as determined by the committee, which shall not exceed \$5.00 per day or portion thereof spent in performing such duties: *Provided*, That the committee at its discretion may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members, and may pay expenses and compensation, as aforesaid.

§ 937.34 Annual report. The committee shall, as soon as is practicable after the close of each marketing season, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

§ 937.37 Shippers' Advisory Committee. (a) A Shippers' Advisory Committee, consisting of five members, who shall be handlers, or employees of handlers, selected by the handlers in accordance with the provisions of this section, is hereby established. There shall be an alternate for each member of such committee. An alternate member shall, in the event of such member's absence from a meeting of the committee, act in the place and stead of such member, and, in the event of a vacancy in the office of such member, shall act in the place and stead of such member until a successor for the unexpired term of such member has been selected.

(b) The members and alternate members of the Shippers' Advisory Committee shall be elected by handlers at a general meeting of all handlers and shall serve in such capacities during the marketing season subsequent to such election. Such meeting shall be supervised by the Nectarine Administrative Committee which may prescribe such rules and procedures as may be necessary to assure a membership representative of all shippers.

(c) The Shippers' Advisory Committee may attend each meeting of the Nectarine Administrative Committee held to consider recommendations with respect to regulations of shipments pursuant to the provisions of this subpart. The Shippers' Advisory Committee may advise the committee on matters relating to such recommendations, but shall have no vote with such committee in any matter. Members of the Shippers' Advisory Committee shall serve without compensation but may be reimbursed for expenses necessarily incurred in attendance of meetings of the Nectarine Administrative Committee.

EXPENSES AND ASSESSMENTS

§ 937.40 Expenses. The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and per-

form its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired in the manner prescribed in § 937.41.

§ 937.41 *Assessments.* (a) As his pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal period, each person who first handles nectarines during such period shall pay to the committee, upon demand, assessments on all nectarines so handled. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person during a fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period and to accumulate and maintain a reserve fund equal to approximately one fiscal period's expenses. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all nectarines handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purposes.

§ 937.42 *Accounting.* (a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this section, it shall be refunded proportionately to the persons from whom it was collected; *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve; *Provided*, That funds already in the reserve do not equal approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal year when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to

defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate; *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

RESEARCH

§ 937.45 *Marketing research and development.* The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of nectarines. The expense of such projects shall be paid from funds collected pursuant to § 937.41.

REGULATIONS

§ 937.50 *Marketing policy.* Each season prior to making any recommendations pursuant to § 937.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing marketing season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of nectarines within the production area;

(2) The expected general quality and size of nectarines in the production area and in other areas;

(3) The expected demand conditions for nectarines in different market outlets;

(4) The expected shipments of nectarines produced in the production area and in areas outside the production area;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) Other factors having a bearing on the marketing of nectarines; and

(8) The type of regulations expected to be recommended during the marketing season.

§ 937.51 *Recommendations for regulation.* (a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of nectarines in the manner provided in § 937.52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee

shall give consideration to current information with respect to the factors affecting the supply and demand for nectarines during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§ 937.52 *Issuance of regulations.* (a) The Secretary shall regulate, in the manner specified in this section, the handling of nectarines whenever he finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit, during any period or periods, the shipment of any particular grade, size, quality, maturity, or pack, or any combination thereof, of any variety or varieties of nectarines grown in the production area;

(2) Limit the shipment of nectarines by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;

(3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in the packaging or handling of nectarines.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give notice thereof to handlers.

§ 937.53 *Modification, suspension, or termination of regulations.* (a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 937.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of nectarines in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 937.54 *Special purpose shipments.* (a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 937.41, 937.52, 937.53, and 937.55, and the regulations issued thereunder, handle nectarines

(1) for consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to §§ 937.41, 937.52, 937.53, or 937.55, the handling of nectarines (1) to designated market areas within the State of California; or (2) for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 937.45), or in such minimum quantities or types of shipments, as may be prescribed.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent nectarines handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle nectarines pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the nectarines will not be used for any purpose not authorized by this section.

§ 937.55 Inspection and certification.

(a) Whenever the handling of any variety of nectarines is regulated pursuant to § 937.52 or § 937.53, each handler who handles nectarines shall, prior thereto, cause such nectarines to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation: *Provided*, That inspection and certification shall not be required for nectarines which previously have been so inspected and certified if such prior inspection was performed within such period as may be established pursuant to paragraph (b) of this section. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such nectarines. The committee may, with the approval of the Secretary, prescribe rules and regulations waiving the inspection requirements of this section where it is determined that inspection is not available: *Provided*, That all shipments made under such waiver shall comply with all regulations in effect.

(b) The committee may, with the approval of the Secretary, establish a period prior to shipment during which the inspection required by this section must be performed.

(c) The committee may enter into an agreement with the Federal and Federal-State Inspection Services with respect to the costs of the inspection required by paragraph (a) of this section, and may collect from handlers their respective pro rata shares of such costs.

REPORTS

§ 937.60 *Reports.* (a) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the

committee to perform its functions, each shipment of nectarines as follows:

(1) The name of the shipper and the shipping point;

(2) The car or truck license number (or name of the trucker), and identification of the carrier;

(3) The date and time of departure;

(4) The number and type of containers in the shipment;

(5) The quantities shipped, showing separately the variety, grade, and size of the fruit;

(6) The destination;

(7) Identification of the inspection certificate or waiver pursuant to which the fruit was handled.

(b) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(c) Each handler shall maintain for at least two succeeding fiscal years, such records of the nectarines received and disposed of by him as may be necessary to verify the reports he submits to the committee pursuant to this section.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided*, That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handler furnishing the information is not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

MISCELLANEOUS PROVISIONS

§ 937.61 *Compliance.* Except as provided in this part, no person shall handle nectarines, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle nectarines except in conformity with the provisions of this part and the regulations issued under this part.

§ 937.62 *Right of the Secretary.* The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 937.63 *Effective time.* The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § 937.64.

§ 937.64 *Termination.* (a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers: *Provided*, That such majority has, during the current marketing season, produced more than 50 percent of the volume of the nectarines which were produced within the production area for shipment in fresh form. Such termination shall become effective on the first day of March subsequent to the announcement thereof by the Secretary.

(d) The Secretary shall conduct a referendum within the period beginning December 1, 1960, and ending February 1, 1961, to ascertain whether continuance of this part is favored by the growers. The Secretary shall conduct such a referendum within the same 2-month period of every second fiscal period thereafter.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 937.65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 937.66 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issu-

ance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 937.67 Duration of immunities. The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 937.68 Agents. The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 937.69 Derogation. Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 937.70 Personal liability. No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 937.71 Separability. If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

Issued at Washington, D. C., this 20th day of June 1958, to become effective upon publication in the FEDERAL REGISTER.

[SEAL]

DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 58-4811; Filed, June 24, 1958; 8:54 a. m.]

PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

FINDINGS AND DETERMINATIONS RELATIVE TO EXPENSES AND FIXING OF THE RATE OF ASSESSMENT FOR THE 1958-59 FISCAL YEAR

Notice was published in the June 6, 1958, daily issue of the FEDERAL REGISTER (23 F. R. 3969) that consideration was

being given to proposals regarding the expenses and the fixing of the rate of assessment for the fiscal year (April 1, 1958, through March 31, 1959) under the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969; 22 F. R. 3513), regulating the handling of avocados grown in south Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Avocado Administrative Committee (established pursuant to the said amended marketing agreement and order), it is hereby found and determined that:

§ 969.206 Expenses and rate of assessment for the 1958-59 fiscal year—(a) Expenses. The expenses that are reasonable and likely to be incurred by the Avocado Administrative Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, for the maintenance and functioning of such committee, in accordance with the provisions thereof, during the said fiscal year beginning April 1, 1958, and ending March 31, 1959, will amount to \$9,153.00.

(b) Rate of assessment. The rate of assessment which each handler who first handles avocados shall pay as his pro rata share of the aforesaid expenses in accordance with the applicable provisions of said amended marketing agreement and order is hereby fixed at four cents (\$0.04) per bushel, or equivalent quantity of avocados handled by such handler during the 1958-59 fiscal year.

(c) Terms used in said amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(d) The provisions hereof shall become effective 30 days after publication in the FEDERAL REGISTER.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: June 19, 1958.

[SEAL]

FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-4781; Filed, June 24, 1958; 8:47 a. m.]

PART 1001—LIMES GROWN IN FLORIDA

DETERMINATION RELATIVE TO EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1958-59 FISCAL YEAR

Notice was published in the June 6, 1958, issue of the FEDERAL REGISTER (23 F. R. 3970), that consideration was being given to proposals regarding the expenses and the fixing of the rate of assessment for the 1958-59 fiscal year under the marketing agreement, as amended, and Order No. 101, as amended (7 CFR Part 1001; 22 F. R. 2526), regu-

lating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

After consideration of all relevant matters presented including the proposals set forth in such notice which were submitted by the Florida Lime Administrative Committee established pursuant to the aforesaid amended marketing agreement and order, it is hereby found and determined that:

§ 1001.205 Expenses and rate of assessment for the 1958-59 fiscal year—(a) Expenses. The expenses that are reasonable and likely to be incurred by the Florida Lime Administrative Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, for the maintenance and functioning of such committee, in accordance with the provisions thereof, during the fiscal year beginning April 1, 1958, and ending March 31, 1959, will amount to \$8,953.00.

(b) Rate of assessment. The rate of assessment which each handler who first handles limes shall pay as his pro rata share of the aforesaid expenses in accordance with the applicable provisions of said amended marketing agreement and order is hereby fixed at four cents (\$0.04) per bushel, or equivalent quantity of limes handled by such handler during the 1958-59 fiscal year.

(c) Terms used in the said amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(d) The provisions hereof shall become effective 30 days after publication in the FEDERAL REGISTER.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: June 19, 1958.

[SEAL]

FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-4783; Filed, June 24, 1958; 8:47 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 1660]

[1773279]

MINNESOTA

REVOKING EXECUTIVE ORDER NO. 8173 OF JUNE 15, 1939, ESTABLISHING TALCOT LAKE MIGRATORY WATERFOWL REFUGE

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Order No. 8173 of June 15, 1939, which reserved the following-described nonpublic lands for use of the Department of Agriculture as the Talcot

Lake Migratory Waterfowl Refuge, redesignated the Talcot Lake National Wildlife Refuge by Proclamation No. 2416 of July 25, 1940, is hereby revoked:

FIFTH PRINCIPAL MERIDIAN

T. 105 N., R. 38 W.,
Sec. 17, SW $\frac{1}{4}$ and W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 18, part of SE $\frac{1}{4}$;
Sec. 19, lots 2 to 5, inclusive, N $\frac{1}{2}$ NE $\frac{1}{4}$, and
N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 20, part of NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$,
SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;

and a part of Talcot Lake, all of which area of land and water is bounded by the following-described lines:

Beginning at the corner of secs. 18 and 19, T. 105 N., R. 38 W., and secs. 13 and 24, T. 105 N., R. 39 W., in the line between Murray and Cottonwood Counties;

Thence between secs. 18 and 19, T. 105 N., R. 38 W.,

East, to the east one-sixteenth corner of said sections;

Thence in sec. 18,

N. 27° E., 16.00 chains;
West, 14.80 chains;
North, 25.76 chains, to the center line;
East, with center line to the one-quarter corner of secs. 17 and 18;

Thence in sec. 17,

East, with center line to the northeast corner of the W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
South, to the southeast corner of the W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
West, to the center south one-sixteenth corner;

South, with center line to the one-quarter corner of secs. 17 and 20;

Thence in sec. 20,

South, with center line, 13.64 chains;
West, 10.00 chains;
South, 5.00 chains;
East, 10.00 chains, to the center line;
South, with center line to the center one-quarter corner;
West, with center line, to the center west one-sixteenth corner;
South, to the southwest one-sixteenth corner;
West, to the south one-sixteenth corner of secs. 19 and 20;

Thence in sec. 19,

West, with the south one-sixteenth line to the meander corner on the east shore of Talcot Lake;

West, with the south one-sixteenth line in Talcot Lake to the theoretical south one-sixteenth corner of sec. 19, T. 105 N., R. 38 W., and sec. 24, T. 105 N., R. 39 W., in the line between Murray and Cottonwood Counties;

Thence between said secs. 19 and 24,

North, to the point of beginning.

The areas described aggregate 804.71 acres.

The lands have been conveyed to the State of Minnesota.

ROGER ERNST,

Assistant Secretary of the Interior,
JUNE 18, 1958.

[P. R. Doc. 58-4774; Filed, June 24, 1958;
8:45 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Reg. No. SR-425]

PART 1—CERTIFICATION, IDENTIFICATION, AND MARKING OF AIRCRAFT AND RELATED PRODUCTS

PART 4b—AIRPLANE AIRWORTHINESS; TRANSPORT CATEGORIES

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF UNITED STATES

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

SPECIAL CIVIL AIR REGULATION; PROVISIONAL CERTIFICATION AND OPERATION OF MULTI-ENGINE TURBINE-POWERED TRANSPORT AIRPLANES FOR WHICH TYPE CERTIFICATES HAVE NOT BEEN ISSUED

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 20th day of June 1958.

The aviation industry of the United States has been engaged for several years in a concentrated program of design, development, and construction of turbine-powered transports. Several hundred of these transports have been ordered by United States air carriers at a cost of nearly two billion dollars. One airplane of this type has already been flown by the manufacturer for several hundred hours in an extremely varied and rigorous flight test program. Other types are in various stages of design, construction and flight testing by their manufacturers.

Air carriers have expressed the desire to operate these airplanes prior to final completion of the type certification programs. The air carriers have indicated in particular that they desire to conduct crew training and obtain as much experience as possible in ground handling, maintenance, and flight of these new airplanes prior to their introduction into commercial service.

Although certain limited operations of this nature have been permitted by the Administrator in the past, he has advised the Board that he considers his authority under Part 1 of the Civil Air Regulations inadequate for him to authorize the operations presently contemplated by the air carriers. The Board is of the opinion, however, that such operations by air carriers intending ultimately to use the airplanes in air carrier service will be in the public interest and should be permitted and encouraged prior to completion of type certification procedures, provided that such operations can be conducted safely. This will afford technical personnel of the air carriers, the Civil Aeronautics Administration, the Civil Aeronautics Board, and others an excellent opportunity to become familiar with the new equip-

ment before it is used in air transportation.

The airplanes under consideration are being built to comply with the requirements of the Civil Air Regulations applicable to transport category airplanes. However, manufacturers of several of these types of airplanes have not yet demonstrated full compliance with the standards established in these regulations for the issuance of type certificates.

Normally, during the development of a new type airplane, the manufacturer applies to the Administrator for an experimental certificate. The Administrator thereafter issues such a certificate in accordance with Part 1 of the Civil Air Regulations if he finds that the airplane may be safely test flown by the manufacturer to show compliance with the Civil Air Regulations for the issuance of a type certificate. The Administrator prescribes appropriate operating restrictions, including the prohibition of carrying persons or property for compensation or hire. It is the policy of the CAA during this certification process to do everything possible to encourage legitimate experimentation leading to improvement in airplanes whenever this may be done without endangering persons and property not involved in the experimentation. In the present situation, turbine-powered transports have been issued experimental certificates in order that flight test programs may be completed. Historically, however, and in keeping with the intent of section 603 (a) (1) and (c) of the Civil Aeronautics Act of 1938, as amended, operations conducted in airplanes so certificated have been limited for the most part to flight test work and related purposes.

It is the practice of manufacturers to initiate production of airplanes of a new type while they are accomplishing the type certification program. Thus, many airplanes may be completed prior to the issuance of the type certificate; the number produced by various manufacturers will, of course, vary with orders on hand and anticipated demand for the airplanes.

In this period, however, the manufacturer is actively pursuing type certification of his airplane. Among other things he submits such descriptive data, test reports, and computations as are necessary to demonstrate that the airplane complies with the requirements of Part 4b. In addition, it is the CAA policy that the manufacturers' test pilots certify that the airplanes have been flown at least in all maneuvers necessary for proof of compliance with the flight requirements of Part 4b and Special Civil Air Regulation No. SR-422.

The Board considered that air carriers should be able to utilize those airplanes which are pending type and airworthiness certification under provisional certification to permit essential crew training and service tests, and to gain other useful information concerning, for example, fuel management, dispatching, and traffic control procedures, prior to

operation in air transportation, subject, of course, to appropriate limitations.

Accordingly, the Bureau of Safety, on April 22, 1958 circulated to interested persons Civil Air Regulations Draft Release No. 58-9, "Special Regulations to Provide for Provisional Certification and Operation of Multiengine Turbine-Powered Transport Airplanes for Which Type Certificates Have Not Been Issued." In this proposal the Bureau of Safety described in some detail the problems associated with such operations and some of the objectives which could be achieved. It was pointed out that much useful technical information could be obtained and in addition the introduction of jets into service in the U. S. could be expedited on a sound and efficient basis. This proposal set forth various procedures and limitations covering three aspects of the problem: Provisional type certification, provisional airworthiness certification, and operational rules. A detailed explanation of each of these provisions is contained in Draft Release 58-9.

The response to this draft release from all persons who would be affected by its provisions was uniformly favorable. There were recommendations, however, for amendment to specific provisions, the most significant of which are discussed below:

Representatives of operators of executive transports recommended that the provisions of the proposed regulation should be made applicable not only to air carriers but to operators of executive transports, advising that there was equal need for provisional certification of these aircraft and that any other action would be arbitrary and discriminatory. The Board's proposal applying to certificated air carriers only was prompted by the need for full assurance that new design aircraft in air transportation have as much service experience as possible before entering such service, consistent with statutory requirements to insure the highest degree of safety in air transportation. It was considered that this approach to type and airworthiness certification should be pioneered by the air carriers in which the public interest was greatest; however, the Board considers these recommendations to be well taken and will consider appropriate extensions of this special regulation.

The Administrator of Civil Aeronautics stated that the provisions of section I (b) (2), which would require the Administrator to predict that a type certificate for a particular airplane would be issued not later than 6 months from the date application was made for a provisional type certificate, presented administrative difficulties without a commensurate contribution to the safety of operations. The Board concurs in this opinion, and is not including this provision in this regulation. The CAA, as well as the manufacturers and air carriers, also indicated that the provisions of section I (d) concerning duration were not wholly clear and should be amended. The Board intends that the privileges of this regulation shall be of limited duration only in order to achieve the objectives stated in this rule, namely, to permit air carriers

to use new turbine transports in training and other operations only if it has been shown that the normal certification requirements are close to being met. The 6 months' duration period was selected, therefore, to insure that only airplanes which were in the latter stages of type certification would be eligible for provisional certification and operation. Since this will not be an issue for some time, the Board will consider this problem on its merits should experience under this regulation indicate that revision of the duration requirements with respect to reissuance or renewal is in the public interest. The proposed 30-day grace period for the duration of a provisional type certificate after the issuance of a transport category type certificate is being extended to 60 days to provide the air carriers with sufficient time to return the provisionally certificated airplanes to the manufacturers for modifications should such be necessary as the result of type certification tests. In order to clarify this requirement further, a proviso has been added to insure that should a transport category type certificate be issued, for example, 5 months after the issuance of a provisional type certificate, the applicant will still have 60 days to return airplanes to the factory as necessary. Similar revisions have been made to the duration of the provisional airworthiness certificates in order to insure consistency.

The Aircraft Industries Association, in commenting on Draft Release 58-9, indicated that it considered an amendment to Part 1 of the Civil Air Regulations would be a more appropriate method for authorizing the proposed operations. The Board is aware of other problems connected with the operation of airplanes holding experimental certificates and will give attention to them in separate rule making. AIA, however, also commented on certain of the specific provisions of the proposed regulation, particularly as those provisions affected the manufacturers of jet transports. Concern was expressed that the requirement of section I (b) might require the submission of the kind of report not currently required by the Civil Air Regulations. The Board intends, however, that the manufacturer will be required to report only to the extent that he is currently required under the provisions of § 4b.16 of Part 4b of the Civil Air Regulations and that this will not be an additional requirement.

The Board has given careful consideration to the air carriers' recommendations pursuant to Draft Release 58-9 that the operation rules in Section III be modified to permit the carriage of cargo and mail in the provisionally certificated jet transports. The Board wishes to reiterate the statement of the Bureau of Safety in Draft Release 58-9 that it does not consider that at this time these transports should be operated in air transportation; i. e., carrying persons, cargo, or mail for compensation or hire. After the Board has had opportunity to evaluate experience gained under this regulation, further consideration will be given to the limited carriage of cargo and mail if such is determined to be in

the public interest. The Board anticipates that interested carriers, after they have established and operated their crew training and familiarization programs, may petition the Board for special authority to conduct cargo and mail operations. The Board would expect that carriers make a clear showing that such operations would advance the safety objectives of this regulation and would not be based solely on economic considerations.

In Draft Release 58-9 the Bureau of Safety solicited specific comment on a recommendation that provisionally certificated airplanes be equipped with flight recorders. Comment received indicated that a requirement for a flight recorder of a type designed to meet the requirements of presently effective operating rules would be extremely burdensome. At least one major potential operator of the provisionally certificated airplanes has informed the Board that installation provisions for a NACA VGH recorder and a recorder designed to meet the requirements of the operating rules will be accomplished on the first airplane to be delivered. At this time, however, such operator is not certain whether either type of recorder will be delivered in time for installation on the airplane at the initiation of operations under this special regulation. Every effort is promised, however, to have them installed as soon as possible; other carriers also are in the same position. In view of this situation and the fact that extensive plans have been made for the installation in these transports of NACA recorders in a cooperative effort among aircraft manufacturers, air carriers, and the NACA, the Board will not require by regulation the installation of flight recorders in provisionally certificated airplanes. The Board urges both the manufacturers and air carriers, however, to make every effort to install flight recorders at the earliest opportunity in order that valuable technical data can be obtained with respect to the operation of these airplanes and that operating experience of the flight recorders themselves may be obtained also.

The Air Line Pilots Association recommended that the minimum flight time required for issuance of both the provisional type certificate and related airworthiness certificate should be increased. While the Board recognizes the validity of the general proposition that more flight time might be desirable, it considers that the minimums contained in the proposed regulations are adequate to insure a satisfactory level of safety for the type of operation authorized.

The Flight Engineers' International Association recommended that special certification standards be established for flight engineers who will be affected by this regulation. Specifically, FEIA requested that the regulation require that flight engineers demonstrate to the Administrator a complete and absolute knowledge of the aircraft, its accessories and systems, and that this information be added to the flight engineer certificate. The air carrier is charged by this regulation with the responsibility for conducting appropriate training and maintain-

ing adequate records. The Board is of the opinion, therefore, that the provisions of section III (e) adequately provide for the training of the crew members who will engage in operations under this regulation.

Interested persons have been afforded an opportunity to participate in the making of this regulation (23 F. R. 2843), and due consideration has been given to all relevant matter presented. Since this regulation imposes no additional burden on any person it may be made effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation, effective June 20, 1958.

Contrary provisions of the Civil Air Regulations notwithstanding, a turbine-powered transport airplane for which the issuance of a transport category type certificate is pending shall be eligible for provisional certification and operation in accordance with the provisions of this special regulation.

Section I. Provisional type certificate—
(a) *Applicant.* (1) Any U. S. manufacturer of a turbine-powered airplane may apply for the issuance of a provisional type certificate provided that he has applied to the Administrator for the issuance of a transport category type certificate for such airplane. The application for a provisional type certificate shall be made in a manner prescribed by the Administrator.

(2) The applicant shall be a manufacturer who has previously received a type certificate for at least one airplane in the transport category and has a currently effective production certificate for that type.

(b) *Requirements for issuance.* The Administrator shall issue a provisional type certificate for an airplane for which application is made in accordance with paragraph (a) of this section when the conditions of subparagraphs (1) through (8) of this paragraph are met.

(1) The applicant shall submit the report of flight tests required by § 4b.16 of Part 4b of the Civil Air Regulations and the Civil Aeronautics Administration's official flight test program with respect to the issuance of the type certificate shall be in progress.

(2) The applicant shall certify that, to the best of his knowledge, the airplane for which provisional type certification is sought has been designed and constructed in accordance with those airworthiness requirements applicable to the issuance of the type certificate for that airplane.

(3) An airplane conforming with the type for which a type certificate has been applied shall have been flown at least 100 hours by the applicant under the provisions of an experimental certificate issued in accordance with the provisions of Part 1 of the Civil Air Regulations.

(4) The applicant shall have flown the airplane in all maneuvers necessary to show compliance with those flight requirements applicable to the issuance of the type certificate.

(5) The applicant shall have prepared a provisional airplane flight manual containing all the limitations, information, and procedures as are required for the issuance of the type certificate for that airplane: *Provided*, That where all limitations, information, and procedures have not been established, the applicant shall establish appropriate restrictions on the operation of the airplane.

(6) The applicant shall state that the airplane is considered safe for operation for the purposes set forth herein when conducted

in accordance with the provisional airplane flight manual prescribed in subparagraph (5) of this paragraph.

(7) The applicant shall establish special inspections and maintenance instructions which are considered necessary to insure continued airworthiness of the airplane.

(8) The Administrator shall find, on the basis of the provisions contained in this special regulation, that the airplane has no feature, characteristic, or condition which renders it unsafe when operated in accordance with the provisional airplane flight manual prescribed in subparagraph (5) of this paragraph and maintained in accordance with the inspections and maintenance instructions prescribed in subparagraph (7) of this paragraph.

(c) *Transferability.* A provisional type certificate issued under this special regulation shall not be transferable.

(d) *Duration.* A provisional type certificate shall remain in effect for 6 months or until the airplane is issued a transport category type certificate, whichever occurs first, unless sooner superseded, revoked, or otherwise terminated by the Administrator or the Board: *Provided*, That a provisional type certificate which would terminate prior to 6 months after issuance due to the issuance of a transport category type certificate may remain in effect for an additional 60 days.

Sec. II. Provisional airworthiness certificate—
(a) *Applicant.* The holder of a provisional type certificate or a certificated U. S. air carrier authorized to conduct operations by section III of this regulation may apply for the issuance of a provisional airworthiness certificate for an airplane for which a provisional type certificate has been issued in accordance with the provisions of section I of this special regulation. The application for a provisional airworthiness certificate shall be made in a manner prescribed by the Administrator.

(b) *Requirements for issuance.* (1) An applicant for a provisional airworthiness certificate for an airplane for which a provisional type certificate has been issued shall be issued such provisional airworthiness certificate upon presentation of a statement of conformity by the manufacturer that such airplane conforms to the provisional type certificate.

(2) The airplane shall have been manufactured under a quality control system established in anticipation of, and intended to be used as a basis for, the production certificate to be issued to cover that airplane.

(3) The airplane shall have been flown at least 5 hours by the manufacturer and found by him to be in safe operating condition.

(4) The airplane shall be furnished with a provisional airplane flight manual as required by subparagraph (b) (5) of section I of this special regulation.

(5) The Administrator shall find, on the basis of the provisions contained in this special regulation, that the airplane has no feature, characteristic, or condition which renders it unsafe when operated in accordance with the provisional airplane flight manual prescribed in subparagraph (b) (5) of section I of this special regulation and maintained in accordance with the inspections and maintenance instruction prescribed in subparagraph (b) (7) of section I of this special regulation.

(6) The words "provisional airworthiness" shall be displayed on the exterior of the airplane near each entrance to the cabin or cockpit of the airplane with letters not less than 2 inches in height.

(c) *Transferability.* A provisional airworthiness certificate issued under this special regulation shall be transferable only to an air carrier authorized to conduct operations by section III of this regulation.

(d) *Duration.* A provisional airworthiness certificate shall remain in effect for 6

months, or until the airplane is issued a transport category type certificate, whichever occurs first, unless sooner superseded, revoked, or otherwise terminated by the Administrator or the Board: *Provided*, That provisional airworthiness certificates which would terminate prior to 6 months after issuance due to the issuance of a transport category type certificate may remain in effect for an additional 60 days.

Sec. III. Operation rules. An air carrier holding an air carrier operating certificate issued by the Administrator in accordance with Part 40, 41, or 42 of the Civil Air Regulations may operate turbine-powered transport category airplanes certificated in accordance with Sections I and II of this special regulation in accordance with the following operating rules:

(a) An air carrier may conduct flights for the purpose of crew training, service testing, and simulated air carrier operations not in air transportation, or as otherwise specifically authorized by the Board.

(b) Operations which are conducted for the purposes delineated in the definition of "flight test" in § 60.60 of Part 60 of the Civil Air Regulations shall be conducted in accordance with § 60.24.

(c) The airplane shall be operated in accordance with the limitations, information, and procedures prescribed in the provisional airplane flight manual prepared in accordance with subparagraph (b) (5) of section I of this special regulation.

(d) An air carrier shall establish procedures for the use and guidance of flight and ground operations personnel in the conduct of its operations. Specific procedures shall be established for operations from airports where the runways may require a take-off or approach over populated areas. These procedures shall be approved by the Administrator.

(e) In addition to crew members, only those persons listed in § 40.356 (c) of Part 40 shall be carried in operations conducted under this special regulation.

(f) Each air carrier shall insure that each flight crew member possesses adequate knowledge of, and familiarity with, the airplane and the procedures to be used by him.

(g) Each air carrier shall maintain current records for each flight crew member. These records shall contain such information as is necessary to show that the crew member is properly trained and qualified to perform his assigned duties.

(h) The appropriate instructor, supervisor, or check airman shall certify as to the proficiency of each flight crew member and such certification shall become a part of the flight crew member's record.

(i) Airplanes operated under this special regulation shall be maintained in accordance with applicable Civil Air Regulations, including any special inspections and maintenance instructions prescribed by the manufacturer or the Administrator.

(j) A log of flights conducted under this special regulation, and accurate and complete records of the inspections made, shall be kept by each air carrier and made available to the manufacturer and the Administrator.

(k) No airplane issued a provisional airworthiness certificate under this special regulation shall be operated if the manufacturer or the Administrator determines that a change in design, construction, or operation is necessary to insure safe operation until such change is made. (See also § 1.24 of Part 1 of the Civil Air Regulations.)

(l) The provisional airworthiness certificate shall be prominently displayed in the airplane at all times.

(m) Operations under this special regulation shall be restricted to the United States, its territories, and possessions, unless otherwise authorized by the Board.

This Special Civil Air Regulation shall terminate in 3 years unless sooner superseded or rescinded by the Board.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 603, 605, 608, 609, 52 Stat. 1007, 1009, 1010, 1011; as amended; 49 U. S. C. 551, 553, 555, 558, 559)

By the Civil Aeronautics Board,

[SEAL] MARVIN BERGSMAN,
Acting Secretary.

[F. R. Doc. 58-4814; Filed, June 24, 1958;
8:55 a. m.]

PART 1—CERTIFICATION, IDENTIFICATION, AND MARKING OF AIRCRAFT AND RELATED PRODUCTS

EXPERIMENTAL CERTIFICATES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 20th day of June 1958.

The Board has been asked to resolve a problem pertaining to the indoctrination by a manufacturer of its flight crews on aircraft possessing an experimental certificate and being submitted to the Civil Aeronautics Administration for type certification. The Board considers that the provisions of § 1.73 of Part 1 of the Civil Air Regulations are relevant to the problem. This section reads as follows:

§ 1.73 *Experimental certificates.* Experimental certificates are issued for amateur-built aircraft and for aircraft which are to be used for experiment, for exhibition, for air racing, and to show compliance with the regulations in this subchapter for the issuance of type certificates and related purposes.

Recently the Administrator of Civil Aeronautics established new policies regarding the conditions on the use of aircraft possessing experimental certificates. The new policies are contained in Flight Operations and Airworthiness Memorandum No. 52 issued on April 17, 1958. In studying these policies in the light of the petition on hand, the Board finds that a clarification of one of the provisions of § 1.73 is advisable.

The specific point for clarification is whether or not § 1.73 can be construed to include crew training as one of the operations permitted under the conditions of an experimental certificate issued " . . . to show compliance with the regulations in this subchapter for the issuance of type certificates and related purposes."

It is quite obvious that the showing of compliance with the regulations applicable to the issuance of a type certificate almost invariably requires flight testing by the manufacturer's personnel. Unless adequate personnel are first trained on the aircraft submitted for type certification, showing of compliance may be impossible. The Board considers, therefore, that the pertinent provision of § 1.73 is intended to permit training of the manufacturer's personnel on an aircraft possessing an experimental certificate for the purpose of complying with regulations applicable to the type certification of the aircraft. A question might arise as to whether or not such training

should include personnel who although not involved directly in the flight tests prior to type certification of the aircraft, nevertheless would later conduct flight tests on production aircraft to show conformity of such aircraft with the relevant type design. The Board considers that the intent of § 1.73 is also to include the latter flight tests because their purpose is to permit the issuance of airworthiness certificates and these are directly related to the issuance of type certificates.

The Board is aware of other problems which may require re-evaluation of the provisions of § 1.73. These are being studied separately. In the meantime, because of the need for immediate action on the petition received, the Board makes the following interpretation based on the foregoing considerations:

INTERPRETATION

The Board interprets and construes § 1.73 of Part 1 of the Civil Air Regulations as permitting the training by the manufacturer of its flight crews in an aircraft possessing an experimental certificate issued for the purpose of showing compliance with the regulations for the issuance of type certificates and airworthiness certificates.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 603, 52 Stat. 1007, 1009, as amended; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] MARVIN BERGSMAN,
Acting Secretary.

[F. R. Doc. 58-4815; Filed, June 24, 1958;
8:55 a. m.]

Chapter II—Civil Aeronautics Admin- istration, Department of Commerce

PART 409—PROCEDURES FOR HANDLING PROPOSALS INVOLVING THE UTILIZATION AND ALLOCATION OF AIRSPACE

This new part pertains to the initiation of proposals having to do with the use and allocation of airspace and establishes procedures to be followed in the processing of such proposals.

Inasmuch as this new part provides regulations which are procedural in nature, compliance with section 4 of the Administrative Procedure Act is not necessary and not required. Therefore, this part is adopted to become effective upon publication in the FEDERAL REGISTER.

Subpart A—Introduction

- Sec.
409.1 Basis and purpose.
409.2 Definition of terms.

Subpart B—Organization

- 409.11 Delegation of authority to Assistant Administrator for Airspace.

Subpart C—Rule-Making Process

- 409.21 Request for airspace allocation.
409.22 Processing of proposals.
409.23 Disposition of proposals.

AUTHORITY: §§409.1 to 409.23 issued under sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply secs. 302, 601, 52 Stat. 985, 1007, as amended; 49 U. S. C. 425, 551.

SUBPART A—INTRODUCTION

§ 409.1 *Basis and purpose.* (a) The basis for this part is sections 205, 302, 601 of the Civil Aeronautics Act of 1938, as amended (52 Stat. 984, 985, 1007; 49 U. S. C. 425, 452, 551), and Part 60 of this title.

(b) The purpose of this part is to prescribe methods and procedures for handling proposals involving the utilization and allocation of airspace where the Administrator is authorized by statute or regulation to take action with respect thereto. Such cases include establishment, modification or rescission of civil airways, restricted areas, control zones and areas, flight test areas, high altitude routes, high density airports (or zones), and those airport traffic patterns proposed to be adopted by the Administrator.

§ 409.2 *Definition of terms.* As used in this part:

(a) "Administrator" shall mean Administrator of Civil Aeronautics.

(b) "Airspace Division" shall mean a component of the Air Coordinating Committee established by Executive Order No. 10655, dated January 28, 1956.

SUBPART B—ORGANIZATION

§ 409.11 *Delegation of authority to Assistant Administrator for Airspace.* The Assistant Administrator for Airspace advises and assists the Administrator in all matters pertaining to the utilization of airspace. In rule-making proceedings under the Administrative Procedure Act affecting the use and allocation of airspace (see § 409.1 (b)), the Assistant Administrator for Airspace has authority to make all preliminary and interim determinations. The Administrator will make final determinations affecting the use and allocation of airspace and adopt and promulgate rules growing out of such determinations.

SUBPART C—RULE-MAKING PROCESS

§ 409.21 *Request for airspace allocation.* Any person may file a proposal affecting the utilization or allocation of airspace with the Regional Administrator of the CAA having cognizance over the geographical area embracing the airspace which is proposed to be specially used or allocated.

§ 409.22 *Processing of proposals.* (a) The Regional Administrator, on receipt of a proposal, will refer such proposal to the Regional Subcommittee of the Airspace Division. The Regional Subcommittee will promptly advise persons appearing to have an interest in the proposal that it has been filed and that the Subcommittee will receive comments and opinions with respect thereto.

(b) The Regional Administrator, or his designee, as Chairman of the Regional Subcommittee of the Airspace Division, will assure that proper consideration is given to all comments received. Upon completion of consideration by the Regional Subcommittee of the proposal, the Secretary of the Regional Subcommittee will prepare a report of the proceedings and will forward such report to the Secretary of the Airspace Division. This report will include the proposal and

as complete an account and documentation as is necessary to express the views of all persons commenting on such proposal.

(c) The Secretary of the Airspace Division will circulate among all members and associate members of the Airspace Division and other interested parties, as appropriate, the report of the Chairman of the Regional Subcommittee, soliciting any comments which they desire to make with respect thereto. Such comments, together with the report of the Chairman of the Regional Subcommittee, will be forwarded to the Assistant Administrator for Airspace.

§ 409.23 Disposition of proposals.

(a) If there is no substantial disagreement with the proposal, and it is consistent with the national interest, the Assistant Administrator for Airspace will take the necessary legal steps to give effect to the proposal.

(b) If there is substantial disagreement with the proposal, the Assistant Administrator for Airspace may use any one or a combination of the following:

(1) Ask the Airspace Division to convene and further consider the matter with a view to resolving such disagreement in the national interest; or

(2) After taking into account the record before him, publish a notice of proposed rule-making in order that an opportunity may be afforded interested parties to submit their written comments with reference to the proposed rule; or

(3) If he decides that it is in the national interest to hold a public hearing on the proposal, fix a time and place for such hearing at which all interested persons will be given an opportunity personally to express their views on the proposed rule.

(c) After a consideration of all the views expressed by written comment or by testimony presented at a hearing, the Assistant Administrator for Airspace will recommend to the Administrator the adoption of a rule or such other action as, in his determination, is consistent with the national interest.

(d) When the Administrator decides upon a final rule, it will be published in the FEDERAL REGISTER with an appropriate effective date.

This part shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

[P. R. Doc. 58-4773; Filed, June 24, 1958;
8:45 a. m.]

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

[CGFR 58-23]

Subchapter C—Uninspected Vessels

PART 25—REQUIREMENTS

Subchapter Q—Specifications

PART 160—LIFESAVING EQUIPMENT

LIFE PRESERVERS AND BUOYANT VESTS

Notices regarding proposed changes in the navigation and vessel inspection

regulations, as well as withdrawal of certain manufacturers' approvals, were published in the FEDERAL REGISTER dated February 12, 1958 (23 F. R. 905-910), and March 1, 1958 (23 F. R. 1268-1270), as Items I through XVIII of an Agenda to be considered by the Merchant Marine Council.

This document is the seventh of a series covering the regulations and actions considered at this public hearing and annual session of the Merchant Marine Council and contains the final actions taken with respect to Item XII of the Agenda and that portion of Item XIII respecting kapok life preservers and fibrous glass life preservers. The first document, identified as CGFR 58-8 (23 F. R. 2604), contained miscellaneous amendments to inspection requirements to implement the Act of May 10, 1956, as amended (46 U. S. C. 390-390g), which were based on Item III of the Agenda. The second document, identified as CGFR 58-17 (23 F. R. 3376), contained the requirements governing private aids to navigation on the outer Continental Shelf and waters under the jurisdiction of the United States, which were based on Item I of the Agenda. The third document, identified as CGFR 58-18 (23 F. R. 3447), contained new requirements regarding radar observers and miscellaneous changes respecting renewal of merchant mariner's licenses, which were based on Item IV of the Agenda. Actions with respect to the other items are being processed and have not been published in the FEDERAL REGISTER. The fourth document, identified as CGFR 58-9, contains miscellaneous amendments and requirements respecting dangerous cargoes, which were based on Items XIV, XV, and XVI of the Agenda. The fifth document, identified as CGFR 58-10, contains miscellaneous amendments and requirements respecting vessel inspection, which were based on Items V, VI, VII, IX, XI, and XVII of the Agenda. The sixth document contains miscellaneous amendments respecting lights for barges towed on the Gulf Intracoastal Waterway or western rivers, which were based on Item II of the Agenda.

All the comments, views, and data submitted in connection with the items considered by the Merchant Marine Council at this public hearing have been very helpful to the Coast Guard and are very much appreciated. On the basis of the information received certain proposed regulations were revised in Item XII—Specification for Buoyant Vests of Unicellular Plastic Foam for Use on Motorboats of Classes A, 1, and 2 Not Carrying Passengers for Hire (46 CFR 160.052). This item, as revised, is adopted and included in this document. With respect to the revisions of specification requirements for kapok life preservers and fibrous glass life preservers (46 CFR 160.002, 160.005) in Item XIII of the Agenda, all the comments received were considered. Therefore, with minor changes in Tables 160.002-4 (c) (2) and 160.005-4 (c) (2), they are adopted and included in this document.

The changes in the proposals for the specification for buoyant vests of unicellular plastic foam in Item XII of the

Agenda, were made in 46 CFR 160.052-3 (d) and (e) respecting tie tapes and straps, dee rings and snap hooks; 160.052-5, regarding the construction of Type I vests; 160.052-7 (a), regarding inspections and tests; and 160.052-8 (a), regarding marking.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 120, dated July 31, 1950 (15 F. R. 6521), 167-14, dated November 26, 1954 (19 F. R. 8026), 167-15, dated January 3, 1955 (20 F. R. 840), 167-20, dated June 18, 1956 (21 F. R. 4894), and CGFR 58-28, dated July 24, 1956 (21 F. R. 5659), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendments and regulations are prescribed and shall become effective upon the date of publication of this document in the FEDERAL REGISTER, except for the changes in 46 CFR 160.002-1 to 160.002-7, inclusive, and 160.005-1 to 160.005-7, inclusive, shall become effective 90 days after the date of publication of this document in the FEDERAL REGISTER:

PART 25—REQUIREMENTS

SUBPART 25.25—LIFE PRESERVERS AND OTHER LIFESAVING EQUIPMENT

Section 25.25-5 (g) is amended to read as follows:

§ 25.25-5 General provisions. * * *

(g) All buoyant vests shall be of an approved type constructed in accordance with Subpart 160.047 or 160.052 of Subchapter Q (Specifications) of this chapter.

(R. S. 4405, as amended, 4462, as amended, secs. 6, 17, 54 Stat. 164, as amended, 166, as amended; 46 U. S. C. 375, 416, 526e, 526p)

PART 160—LIFESAVING EQUIPMENT

SUBPART 160.002—LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

1. The title for this subpart is amended to read as set forth above.

2. Section 160.002-1 (a) is amended to read as follows:

§ 160.002-1 Applicable specifications and plans—(a) Specifications. The following specifications, of the issue in effect on the date life preservers are manufactured, form a part of this subpart:

(1) Military specifications:

MIL-C-300—Cloth, Cotton, Drill, Fully Shrunk.

MIL-W-530—Webbing, Textile, Cotton, General Purpose Natural or in Colors.

MIL-T-3330—Treatment, Mildew-Resistant for Thread and Twine.

MIL-F-10400—Film, Flexible, Vinyl.

(2) Federal specifications:

V-T-276—Thread, Cotton.

CCC-T-191b—Textile Test Methods.

DDD-S-751—Stitches; Seams; and Stitching.

(3) Coast Guard specification:

164.003—Kapok, Processed.

3. Section 160.002-2 (a) is amended to read as follows:

§ 160.002-2 Types and models. (a) Life preservers specified by this subpart

shall be of the following types and models:

- Type A—Adult:
Model 3—Adult, 24 ounces kapok.
Type B—Child:
Model 5—Child, 16 ounces kapok.

4. Section 160.002-3 is amended to read as follows:

§ 160.002-3 *Materials*—(a) *Kapok*. The kapok shall be all new material complying with Subpart 164.003 of this subchapter and shall be properly processed.

(b) *Envelope*. The life preserver envelope, or cover, shall be made of cotton drill. The color shall be Indian Orange, Cable No. 70072, Standard Color Card of America, issued by the Textile Color Association of the United States, Inc., 200 Madison Avenue, New York, N. Y., or Scarlet Munsell 7.5 Red 6/10. The drill shall be evenly dyed, and the fastness of the color to laundering, water, crocking, and light shall be rated "good" when tested in accordance with Federal Specification CCC-T-191b, Methods 5610, 5630, 5650, and 5660. After dyeing, the drill shall be treated with a mildew-inhibitor of the type specified in paragraph (j) of this section. The finished goods shall contain not more than 2 percent residual sizing or other non-fibrous material, shall weigh not less than 6.5 ounces per square yard, shall have a thread count of not less than 72 in the warp and 54 in the filling, and shall have a breaking strength (grab method) of not less than 105 pounds in the warp and 70 pounds in the filling. Properly mildew-inhibited drills meeting the physical requirements of specification MIL-C-300 for Type II, Class A drill will be acceptable. If it is proposed to treat the fabric with a fire-retardant substance, full details shall be submitted to the Commandant for determination as to what samples will be needed for testing.

(c) *Tunnel strip*. The tunnel strip shall be made of cotton drill conforming to the requirements for the envelope cover.

(d) *Pad covering*. The covering for the kapok pad inserts shall be flexible vinyl film not less than 0.006 inch in thickness meeting the requirements of specification MIL-F-10400 for Type I, Class 1, film. Type II, Class 1 film not less than 0.008 inch in thickness will also be acceptable.

(e) *Tie tapes and drawstrings*. The tie tapes at the neck and the lower drawstrings shall be made of 1¼-inch cotton tape weighing not less than 0.3 ounce per linear yard, and having a minimum breaking strength of 200 pounds. The tie tapes and drawstrings shall be treated with a mildew-inhibitor of the type specified in paragraph (j) of this section.

(f) *Body strap*. The body strap shall be made of one-inch cotton webbing having a minimum breaking strength of 400 pounds. One-inch cotton webbing meeting the requirements of specification MIL-W-530 for Type IIb webbing is acceptable. The complete body strap assembly shall have a minimum breaking strength of 360 pounds. The body strap shall be treated with a mildew-inhibitor

of the type specified in paragraph (j) of this section.

(g) *Dee rings and snap hook*. The dee rings and snap hook shall be of brass, bronze, or stainless steel, and of the approximate size indicated by Dwg. F-49-6-1, Sheet 1. The snap hook spring shall be phosphor bronze or other suitable corrosion-resistant material. Dee ring ends shall be welded to form a continuous ring. The webbing opening of the snap hook shall be a continuous ring.

(h) *Reinforcing tape*. The reinforcing tape shall be made of ¾-inch cotton tape weighing not less than 0.18 ounce per linear yard and having a minimum breaking strength of 120 pounds, and shall be treated with a mildew-inhibitor of the type specified in paragraph (j) of this section.

(i) *Thread*. The thread shall be Type IB, No. 20 4-ply cotton thread, conforming to the requirements of Federal Specification V-T-276, and shall be treated with a Class I (Copper-8) or Class II (G-4) mildew-inhibitor as specified in specification MIL-T-3530.

(j) *Mildew-inhibitor*. The mildew-inhibitor shall be dihydroxydichlorodiphenylmethane, known commercially as Compound G-4, applied by the aqueous method. The amount of inhibitor deposited shall be not more than 1.50 percent and not less than 1.00 percent of the dry weight of the finished goods.

5. Section 160.002-4 is amended by deleting paragraphs (i) and (j), by renumbering the present paragraph (k) to be (i), and by amending paragraphs (b) and (c) to read as follows:

§ 160.002-4 *Construction*. . . .

(b) *Envelope*. The envelope shall be of not more than two pieces, one piece for either side, cut to the pattern shown on Dwg. No. F-49-6-1, Sheet 1, for adult size, and Dwg. F-49-6-5, Sheet 1, for child size, joined by seams and stitching as shown on the drawing. A drawstring tunnel shall be formed by stitching a strip of the tunnel strip material as shown on the drawing. The ends of the tunnel strip shall be tucked under the reinforcing tape stitched around the end openings so there is no direct access to the pads from the outside. Three pockets shall be formed for insertion of the kapok pads. The two front pads shall be removable from the envelope when portions of the lower longitudinal seam are opened, and the back pad shall be removable when a portion of one armhole seam is opened.

(c) *Pad inserts*—(1) *Forming, sealing, and distribution of kapok*. The buoyant pad inserts shall be formed from two pieces of film cut to the patterns shown by Dwg. No. F-49-6-1, Sheet 2, for adult size, and Dwg. No. F-49-6-5, Sheet 2, for child size, which shall be heat-sealed tight. The heat-sealed pad seams shall show an adhesion of not less than 8 pounds when one inch strips cut across and perpendicular to the seams are pulled apart at a rate of separation of the clamping jaws of the test machine of 12 inches per minute. The pad inserts shall be filled with kapok distributed as follows:

TABLE 160.002-4 (c) (1)—DISTRIBUTION OF KAPOK IN PAD INSERTS

	Model 3 (minimum)	Model 5 (minimum)
Front pad (2):		
Lower section.....	5.25 oz. each.....	3.50 oz. each.....
Upper section.....	3.75 oz. each.....	2.50 oz. each.....
Back Pad.....	6.00 oz. each.....	4.00 oz. each.....
Total.....	24.00 oz.....	16.00 oz.....

(2) *Displacement of pad inserts*. The volume of the finished individual heat-sealed buoyant pad inserts shall be such as to provide buoyancy as set forth in the following table when tested in accordance with the method set forth in § 160.002-5 (d), except that the period of submergence shall be only long enough to determine the displacement of the pads:

TABLE 160.002-4 (c) (2)—VOLUME DISPLACEMENT OF SEALED PADS

	Model 3	Model 5
Front pads.....	12½ lbs. each ± ¼ lb.	6½ lbs. each ± ¼ lb.
Back pads.....	5 lbs. each ± ¼ lb.	4½ lbs. each ± ¼ lb.

6. Section 160.002-5 is amended by revising paragraphs (d) and (e) to read as follows:

§ 160.002-5 *Sampling, tests, and inspections*. . . .

(d) *Buoyancy test*. Remove the buoyant pad inserts from the life preserver and cut three slits in the film on both sides of both the upper and lower sections of the front pads and three slits on both sides of the back pad. The slits shall be not less than 2 inches in length and spaced not less than 2 inches apart. Securely attach the spring scale in a position directly over the test tank. Suspend the weighted wire basket from the scale in such a manner that the basket may be weighed while it is completely under water. In order to measure the actual buoyancy provided by the pads, the underwater weight of the empty basket should exceed the buoyancy of the pads; to obtain the buoyancy of the pads, proceed as follows:

(1) Weigh the empty wire basket under water.

(2) Place the pads inside the basket, and submerge it so that the top of the basket is at least 2 inches below the surface of the water. Allow the pads to remain submerged for 48 hours. The tank shall be locked or sealed during this 48-hour submergence period. It is important that after the pads have once been submerged they shall remain submerged for the duration of the test, and at no time during the course of the test shall they be removed from the tank or otherwise exposed to air.

(3) After the 48-hour submergence period unlock or unseal the tank and weigh the wire basket with the pads inside while both are still under water.

(4) The buoyancy is computed as (1) minus (3).

(e) *Buoyancy required*. The buoyant pad inserts from Model 3 adult life preservers shall provide not less than 25 pounds buoyancy in fresh water, and the pads from Model 5 child life preservers

shall provide not less than 16½ pounds buoyancy.

7. Section 160.002-7 (a) is amended to read as follows:

§ 160.002-7 *Procedure for approval*—(a) *General*. Life preservers for use on merchant vessels or motorboats are approved only by the Commandant, U. S. Coast Guard, Washington, D. C. Each model life preserver is considered separately. Correspondence pertaining to the subject matter of this specification shall be addressed to the Commander of the Coast Guard District in which the factory is located. The Commander of the Coast Guard District will detail a marine inspector to the factory to observe the production facilities and manufacturing methods and to select, from not less than ten life preservers already manufactured, not less than three life preservers for test in accordance with §§ 160.002-4 (c) (2) and 160.002-5 (d). A copy of the marine inspector's report, together with a fourth specimen life preserver and one set of pad inserts selected from those already manufactured, will be forwarded to the Commandant for examination, and if satisfactory an official approval number will be assigned to the manufacturer for the model life preserver submitted.

(R. S. 4405, as amended, 4462, as amended; 46 U. S. C. 375, 416. Interpret or apply R. S. 4417a, as amended, 4426, as amended, 4481, as amended, 4482, as amended, 4488, as amended, 4491, as amended, 4492, as amended, sec. 11, 35 Stat. 428, sec. 1, 2, 49 Stat. 1544, as amended, sec. 6, 17, 54 Stat. 164, as amended, 168, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 70 Stat. 152, sec. 3 (c), 68 Stat. 676; 46 U. S. C. 391a, 404, 474, 475, 481, 489, 490, 396, 367, 526e, 526p, 1333, 390b, 50 U. S. C. 198; E. O. 10402, 17 F. R. 9917, 3 CFR 1952 Supp.)

SUBPART 160.005—LIFE PRESERVERS, FIBROUS GLASS, ADULT AND CHILD (JACKET TYPE), MODELS 52 AND 56

1. The title for this subpart is amended to read as set forth above.

2. Section 160.005-1 (a) is amended to read as follows:

§ 160.005-1 *Applicable specifications and plans*—(a) *Specifications*. The following specifications, of the issue in effect on the date life preservers are manufactured, form a part of this subpart:

(1) *Federal specifications*:

V-T-276—Thread, Cotton.
CCC-T-191b—Textile Test Methods.
DDD-S-751—Stitches; Seams; and Stitching.

(2) *Military specifications*:

MIL-C-300—Cloth, Cotton, Drill, Fully Shrunken.
MIL-W-530—Webbing, Textile, Cotton, General Purpose Natural or in Colors.
MIL-B-2766—Batt, Fibrous Glass, Lifesaving Equipment.
MIL-T-3530—Treatment, Mildew-Resistant for Thread and Twine.
MIL-F-10400—Film, Flexible, Vinyl.

3. Section 160.005-2 (a) is amended to read as follows:

§ 160.005-2 *Types and models*. (a) Life preservers specified by this subpart

shall be of the following types and models:

Type A—Adult:

Model 52—Adult, 46 ounces fibrous glass.

Type B—Child:

Model 56—Child, 30 ounces fibrous glass.

4. Section 160.005-3 is amended to read as follows:

§ 160.005-3 *Materials*—(a) *Fibrous glass*. The fibrous glass shall be all new material complying with the requirements of Specification MIL-B-2766.

(b) *Envelope*. The life preserver envelope, or cover, shall be made of cotton drill. The color shall be Indian Orange, Cable No. 70072, Standard Color Card of America, issued by the Textile Color Association of the United States, Inc., 200 Madison Avenue, New York, N. Y., or Scarlet Munsell 7.5 Red 6/10. The drill shall be evenly dyed, and the fastness of the color to laundering, water, crocking, and light shall be rated "good" when tested in accordance with Federal Specification CCC-T-191b, Methods 5610, 5630, 5650, and 5660. After dyeing, the drill shall be treated with a mildew-inhibitor of the type specified in paragraph (j) of this section. The finished goods shall contain not more than 2 percent residual sizing or other non-fibrous material, shall weigh not less than 6.5 ounces per square yard, shall have a thread count of not less than 72 in the warp and 54 in the filling, and shall have a breaking strength (grab method) of not less than 105 pounds in the warp and 70 pounds in the filling. Properly mildew-inhibited drills meeting the physical requirements of specification MIL-C-300 for Type II, Class A drill will be acceptable. If it is proposed to treat the fabric with a fire-retardant substance, full details shall be submitted to the Commandant for determination as to what samples will be needed for testing.

(c) *Tunnel strip*. The tunnel strip shall be made of cotton drill conforming to the requirements for the envelope cover.

(d) *Pad covering*. The covering for the fibrous glass pad inserts shall be flexible vinyl film not less than 0.008 inch in thickness meeting the requirements of specification MIL-F-10400 for Type I, Class 1, film. Type II, Class 1 film not less than 0.008 inch in thickness will also be acceptable.

(e) *Tie tapes and drawstrings*. The tie tapes at the neck and the lower drawstrings shall be made of 1¼-inch cotton tape weighing not less than 0.3 ounce per linear yard, and having a minimum breaking strength of 200 pounds. The tie tapes and drawstrings shall be treated with a mildew-inhibitor of the type specified in paragraph (j) of this section.

(f) *Body strap*. The body strap shall be made of one-inch cotton webbing having a minimum breaking strength of 400 pounds. One-inch cotton webbing meeting the requirements of specification MIL-W-530 for Type IIb webbing is acceptable. The complete body strap assembly shall have a minimum breaking strength of 360 pounds. The body strap shall be treated with a mildew-

inhibitor of the type specified in paragraph (j) of this section.

(g) *Dee rings and snap hook*. The dee rings and snap hook shall be brass, bronze, or stainless steel, and of the approximate size indicated by Dwg. No. 160.005-1, Sheet 1. The snap hook spring shall be phosphor bronze or other suitable corrosion-resistant material. Dee ring ends shall be welded to form a continuous ring. The webbing opening of the snap hook shall be a continuous ring.

(h) *Reinforcing tape*. The reinforcing tape shall be made of ¾-inch cotton tape weighing not less than 0.18 ounce per linear yard and having a minimum breaking strength of 120 pounds, and shall be treated with a mildew-inhibitor of the type specified in paragraph (j) of this section.

(i) *Thread*. The thread shall be Type IB, No. 20, 4-ply cotton thread, conforming to the requirements of Federal Specification V-T-276, and shall be treated with a Class I (Copper-8) or Class II (G-4) mildew-inhibitor as specified in specification MIL-T-3530.

(j) *Mildew-inhibitor*. The mildew-inhibitor shall be dihydroxydichlorodiphenylmethane, known commercially as Compound G-4, applied by the aqueous method. The amount of inhibitor deposited shall be not more than 1.50 percent and not less than 1.00 percent of the dry weight of the finished goods.

5. Section 160.005-4 is amended by deleting paragraphs (i) and (j), by renumbering paragraph (k) to (i), and by revising paragraphs (b) and (c) to read as follows:

§ 160.005-4 *Construction*. * * *

(b) *Envelope*. The envelope shall be of not more than two pieces, one piece for either side, cut to the pattern shown on Dwg. No. 160.005-1, Sheet 1, for adult size, and Sheet 4, for child size, joined by seams and stitching as shown on the drawing. A drawstring tunnel shall be formed by stitching a strip of the tunnel strip material as shown by the drawing. The ends of the tunnel strip shall be tucked under the reinforcing tape stitched around the end openings so there is no direct access to the pads from the outside. Three pockets shall be formed for insertion of the pads. The two front pads shall be removable from the envelope when portions of the lower longitudinal seam are opened, and the back pad shall be removable when a portion of one armhole seam is opened.

(c) *Pad inserts*—(1) *Forming, sealing, and distribution of fibrous glass*. The buoyant pad inserts shall be formed from two pieces of film cut to the patterns shown by Dwg. No. 160.005-1, Sheet 3, for adult size, and Sheet 5, for child size, which shall be heat-sealed tight. The heat-sealed pad seams shall show an adhesion of not less than 8 pounds when 1-inch strips cut across and perpendicular to the seams are pulled apart at a rate of separation of the clamping jaws of the test machine of 12 inches per minute. The pad inserts shall be filled with fibrous glass distributed as follows:

TABLE 160.005-4 (c) (1)—DISTRIBUTION OF FIBROUS GLASS IN PAD INSERTS

	Model 52 (minimum)	Model 56 (minimum)
Front pad (2):		
Lower section.....	10.00 oz. each.....	6.50 oz. each.....
Upper section.....	7.25 oz. each.....	4.75 oz. each.....
Back pad.....	11.50 oz.....	7.50 oz.....
Total.....	45.00 oz.....	30.00 oz.....

(2) *Displacement of pad inserts.* The volume of the finished individual heat-sealed buoyant pad inserts shall be such as to provide buoyancy as set forth in the following table when tested in accordance with the method set forth in § 160.005-5 (d), except that the period of submergence shall be only long enough to determine the displacement of the pads:

TABLE 160.005-4 (c) (2)—VOLUME DISPLACEMENT OF SEALED PADS

	Model 52	Model 56
Front pads.....	12½ lbs. each ± ¼ lb.	6½ lbs. each ± ¼ lb.
Back pads.....	8 lbs. each ± ¼ lb.	4½ lbs. each ± ¼ lb.

6. Section 160.005-5 is amended by revising paragraphs (d) and (e) to read as follows:

§ 160.005-5 *Sampling, tests, and inspections.* * * *

(d) *Buoyancy test.* Remove the buoyant pad inserts from the life preserver and cut three slits in the film on both sides of both the upper and lower sections of the front pads and three slits on both sides of the back pad. The slits shall be not less than 2 inches in length and spaced not less than 2 inches apart. Securely attach the spring scale in a position directly over the test tank. Suspend the weighted wire basket from the scale in such a manner that the basket may be weighed while it is completely under water. In order to measure the actual buoyancy provided by the pads, the underwater weight of the empty basket should exceed the buoyancy of the pads. To obtain the buoyancy of the pads, proceed as follows:

(1) Weigh the empty wire basket under water.

(2) Place the pads inside the basket, and submerge it so that the top of the basket is at least 2 inches below the surface of the water. Allow the pads to remain submerged for 48 hours. The tank shall be locked or sealed during this 48-hour submergence period. It is important that after the pads have once been submerged they shall remain submerged for the duration of the test, and at no time during the course of the test shall they be removed from the tank or otherwise exposed to air.

(3) After the 48-hour submergence period unlock or unseal the tank and weigh the wire basket with the pads inside while both are still under water.

(4) The buoyancy is computed as (1) minus (3).

(e) *Buoyancy required.* The buoyant pad inserts from Model 52 adult life preservers shall provide not less than 25

pounds buoyancy in fresh water, and the pads from Model 56 child life preservers shall provide not less than 16½ pounds buoyancy.

7. Section 160.005-7 (a) is amended to read as follows:

§ 160.005-7 *Procedure for approval.*—(a) *General.* Life preservers for use on merchant vessels or motorboats are approved only by the Commandant, U. S. Coast Guard, Washington, D. C. Each model life preserver is considered separately. Correspondence pertaining to the subject matter of this specification shall be addressed to the Commander of the Coast Guard District in which the factory is located. The Commander of the Coast Guard District will detail a marine inspector to the factory to observe the production facilities and manufacturing methods and to select, from not less than ten life preservers already manufactured, not less than three life preservers for test in accordance with §§ 160.005-4 (c) (2) and 160.005-5 (d). A copy of the marine inspector's report, together with a fourth specimen life preserver and one set of pad inserts selected from those already manufactured, will be forwarded to the Commandant for examination, and, if satisfactory an official approval number will be assigned to the manufacturer for the model life preserver submitted.

(R. S. 4405, as amended, 4462, as amended; 46 U. S. C. 375, 416. Interpret or apply R. S. 4417a, as amended, 4426, as amended, 4481, as amended, 4482, as amended, 4488, as amended, 4491, as amended, 4492, as amended, sec. 11, 35 Stat. 428, secs. 1, 2, 49 Stat. 1544, as amended, secs. 6, 17, 54 Stat. 164, as amended, 166, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 70 Stat. 152, sec. 3 (c), 68 Stat. 676; 46 U. S. C. 391a, 404, 474, 475, 481, 489, 490, 396, 367, 526e, 526p, 1333, 390b, 50 U. S. C. 198; E. O. 10402, 17 F. R. 9917, 3 CFR, 1952 Supp.)

SUBPART 160.052—SPECIFICATION FOR BUOYANT VESTS, UNICELLULAR PLASTIC FOAM ADULT AND CHILD, FOR MOTORBOATS OF CLASSES A, 1, OR 2 NOT CARRYING PASSENGERS FOR HIRE

1. Part 160 is amended by adding a new Subpart 160.052, consisting of §§ 160.052-1 to 160.052-9, inclusive, which read as follows:

Sec.
160.052-1 Applicable specifications and plans.
160.052-2 Types and models.
160.052-3 Materials—Type I vests.
160.052-4 Materials—Type II vests.
160.052-5 Construction—Type I vests.
160.052-6 Construction—Type II vests.
160.052-7 Inspections and tests—Types I and II vests.
160.052-8 Marking—Types I and II vests.
160.052-9 Procedure for approval—Types I and II vests.

AUTHORITY: §§ 160.052-1 to 160.052-9 issued under R. S. 4405, as amended, 4462, as amended; 46 U. S. C. 375, 416. Interpret or apply secs. 6, 17, 54 Stat. 164, as amended, 166, as amended; 46 U. S. C. 526e, 526p.

§ 160.052-1 *Applicable specifications and plans.*—(a) *Specifications.* The following specifications, of the issue in effect on the date buoyant vests are manufactured, form a part of this subpart:

(1) Federal specifications:

V-T-278—Thread, Cotton.
CCC-T-191b—Textile Test Methods.
DDD-S-751—Stitches; Seams; and Stitching.

(2) Military specifications:

MIL-W-530—Webbing, Textile, Cotton, General Purpose Natural or in Colors.
MIL-P-15280—Plastic Foam, Unicellular, Buoyant, Sheet and Molded Shape.

(b) *Plans.* The following plans, of the issue in effect on the date buoyant vests are manufactured, form a part of this subpart:

DWG. No. 160.052-1:

Sheet 1—Cutting Pattern and General Arrangement, Model AP.
Sheet 2—Cutting Pattern and General Arrangement, Model CPM.
Sheet 3—Cutting Pattern and General Arrangement, Model CPS.
Sheet 4—Insert Patterns.

(c) *Copies on file.* Copies of the specifications and plans referred to in this section shall be kept on file by the manufacturer, together with the certificate of approval. The Coast Guard plans may be obtained upon request from the Commandant, United States Coast Guard, Washington 25, D. C. The Federal specifications may be purchased from the Business Service Center, General Services Administration, Washington 25, D. C. The Military specifications may be obtained from the Commanding Officer, Naval Supply Depot, Scotia 2, N. Y.

§ 160.052-2 *Types and models.* (a) Buoyant vests specified by this subpart shall be of the following types and models:

(1) Type I—Standard:

Model AP—Adult.
Model CPM—Child, Medium (For children weighing approximately 45 to 90 pounds).
Model CPS—Child, Small (For children weighing less than approximately 50 pounds).

(2) Type II—Non-standard:

Model I—Adult.
Model I—Child, Medium (For children weighing approximately 45 to 90 pounds).
Model I—Child, Small (For children weighing less than approximately 50 pounds).

§ 160.052-3 *Materials—Type I vests.*—(a) *General.* The requirements for materials specified in this section are minimum requirements, and consideration will be given to the use of alternate materials in lieu of those specified. Detailed technical data and samples of all proposed alternate materials shall be submitted for approval prior to being incorporated in the finished product.

(b) *Unicellular plastic foam.* The unicellular plastic foam shall be all new material complying with the requirements of specification MIL-P-15280 for Type IA foam, and for each lot of plastic foam used the vest manufacturer shall obtain from the manufacturer of the foam a certification that it complies with these requirements.

(c) *Envelope.* The buoyant vest envelope, or cover, shall be made from 39-

¹ Model designations for Type II, Non-standard vests to be assigned by individual manufacturers.

inch, 2.85 cotton jeans cloth, with a thread count of approximately 96 x 64. The finished goods shall weigh not less than 4.2 ounces per square yard, shall have thread count of not less than 94 x 60, and shall have a breaking strength of not less than 85 pounds in the warp and 50 pounds in the filling. Other cotton fabrics having a weight and breaking strength not less than the above will be acceptable. There are no restrictions as to color, but the fastness of the color to laundering, water, crocking, and light shall be rated "good" when tested in accordance with Federal specification CCC-T-191b, Methods 5610, 5630, 5650, and 5660.

(d) *Tie tapes and straps.* The tie tapes and body strap loops for both adult and child sizes shall be $\frac{3}{4}$ -inch cotton webbing meeting the requirements of specification MIL-W-530 for Type I webbing. The body straps for adult size vests shall be 1-inch Type IIA webbing, and the body straps for child size vests shall be $\frac{3}{4}$ -inch Type IIA webbing.

(e) *Dee rings and snap hooks.* The dee rings and snap hooks shall be of a size consistent with the webbing on which they are used and shall be of corrosion-resistant material or protected against corrosion by a corrosion-resistant plating.

(f) *Thread.* The thread shall be Type IB, No. 20, 4-ply cotton thread conforming to the requirements of Federal specification V-T-276.

§ 160.052-4 *Materials—Type II vests—(a) General.* All materials used in non-standard Type II buoyant vests shall be at least equivalent to those specified in § 160.052-3 for standard Type I vests.

§ 160.052-5 *Construction—Type I vests—(a) General.* This specification covers buoyant vests which essentially consist of a fabric envelope in which are enclosed inserts of buoyant material arranged and distributed so as to provide the flotation characteristics and buoyancy required to hold the wearer in an upright or slightly backward position with head and face out of water. The buoyant vests are also fitted with straps and hardware to provide for proper adjustment and close and comfortable fit to the bodies of various size wearers.

(b) *Envelope.* The envelope or cover shall be made of three pieces. Two pieces of fabric shall be cut to the pattern shown on Dwg. No. 160.052-1, Sheet 1, for adult size, and Sheets 2 and 3 for child sizes, and joined together with a third piece which forms a 2-inch finished gusset strip all around. Reinforcing strips of the same material as the envelope shall be stitched to the inside of the front piece of the envelope in way of the strap attachments as shown by the drawings.

(c) *Buoyant inserts.* The unicellular plastic foam buoyant inserts shall be cut and formed as shown on Dwg. No. 160.052-1, Sheet 4.

(d) *Tie tapes, straps, and hardware.* The tie tapes, straps, and hardware shall be arranged as shown on the drawings and attached to the envelope with the seams and stitching indicated.

(e) *Stitching.* All stitching shall be short lock stitch conforming to Stitch Type 301 of Federal Specification DDD-S-751, and there shall be not less than 7 nor more than 9 stitches to the inch.

(f) *Pockets.* Pockets are not required on buoyant vests, but may be placed on them if desired, provided they do not interfere with the adjustment or fit of the vest.

(g) *Workmanship.* Buoyant vests shall be of first-class workmanship and shall be free from any defects materially affecting their appearance or serviceability.

§ 160.052-6 *Construction—Type II vests—(a) General.* Construction methods used in non-standard Type II buoyant vests shall be at least equivalent to those specified in § 160.052-5 for standard Type I vests. Type II vests shall also meet the additional requirements specified below.

(b) *Sizes.* Type II vests shall be constructed in sizes which correspond to those specified in § 160.052-2 for Type I vests, i. e., adult size, child's medium, and child's small.

(c) *Volume of buoyant material.* Adult size Type II vests shall contain not less than 500 cubic inches of plastic foam buoyant material; child's medium size not less than 350 cubic inches; and child's small size not less than 225 cubic inches.

(d) *Arrangement of buoyant material.* The buoyant material in Type II vests shall be located and arranged so as to hold the wearer in an upright or backward position with head and face out of water. They shall show no tendency to turn a wearer face downward in the water, and at least 70 percent of the total buoyant material in any Type II vest shall be located in the front of the vest.

(e) *Adjustment, fit, and donning.* Type II vests shall be capable of being readily and easily adjusted to fit the range of wearers for which designed, and donning time by uninitiated persons shall compare favorably with that of standard Type I vests.

§ 160.052-7 *Inspections and tests—Types I and II vests—(a) General.* Buoyant vests are not inspected at regularly scheduled factory inspections; however, the Commander of the Coast Guard District may detail a marine inspector at any time to visit any place where buoyant vests are manufactured to observe reduction methods and to conduct any inspections or tests which may be deemed advisable. The marine inspector shall be admitted to any place in the factory where work is done on buoyant vests or component materials, and samples of materials entering into construction may be taken by the marine inspector and tests made for compliance with the applicable requirements.

(b) *Manufacturer's inspections and tests.* Manufacturers of approved buoyant vests shall maintain quality control of the materials used, manufacturing methods, workmanship, and the finished product so as to meet the requirements of this specification, and shall

make full inspections and tests of representative samples from each lot to maintain the quality of their product. At least one sample vest from each lot shall be tested for buoyancy by the manufacturer in accordance with the procedure set forth in § 160.052-7 (e). The records of such buoyancy tests shall be kept on file by the manufacturer and shall be made available to the Coast Guard marine inspector upon demand.

(c) *Lot size.* A lot shall consist of not more than 500 buoyant vests of the same type and model. Lots shall be numbered serially by the manufacturer, and if at any time during the manufacture of a lot, any change or modification in materials or production methods is made, a new lot shall be started.

(d) *Test facilities.* The manufacturer shall provide a suitable place and shall have on hand the necessary apparatus for conducting buoyancy tests in compliance with this specification. The apparatus shall include accurate spring scales of adequate capacity, weighted wire mesh baskets, and a test tank or tanks which can be locked or sealed in such a manner as to preclude disturbance of buoyant vests undergoing tests or change in water level.

(e) *Buoyancy—(1) Buoyancy test method.* Remove the buoyant inserts from the vests. Securely attach the spring scale in a position directly over the test tank. Suspend the weighted wire basket from the scale in such a manner that the basket can be weighed while it is completely under water. In order to measure the actual buoyancy provided by the inserts, the underwater weight of the empty basket should exceed the buoyancy of the inserts. To obtain the buoyancy of the inserts, proceed as follows:

(i) Weigh the empty wire basket under water.

(ii) Place the inserts inside the basket and submerge it so that the top of the basket is at least 2 inches below the surface of the water. Allow the inserts to remain submerged for 24 hours. The tank shall be locked or sealed during this 24-hour submergence period. It is important that after the inserts have once been submerged they shall remain submerged for the duration of the test, and at no time during the course of the test shall they be removed from the tank or otherwise exposed to air.

(iii) After the 24-hour submergence period, unlock or unseal the tank and weigh the wire basket with the inserts inside while both are still under water.

(iv) The buoyancy is computed as (i) minus (iii).

(2) *Buoyancy required.* The buoyant inserts from adult size buoyant vests shall provide not less than 15½ pounds buoyancy in fresh water; the inserts from child's medium size vests shall provide not less than 11 pounds buoyancy; and the inserts from child's small size vests shall provide not less than 7 pounds buoyancy.

(f) *Additional tests for Type II vests.* For Type II vests additional tests such as tests to determine performance in the water, extended service tests to determine suitability of materials, tests to deter-

mine comparative donning time and ease of adjustment, and such other tests as may be necessary to determine equivalence to the standard Type I vests may be required prior to approval. The costs of such additional tests will be payable by the manufacturer.

§ 160.052-8 *Marking—Types I and II vests*—(a) *General*. Each buoyant vest shall be marked with a rectangular cloth tag attached to the envelope by stitching along all edges of the tag. The following information shall be plainly printed in waterproof ink on each tag:

TYPE (I OR II)
BUOYANT VEST
MODEL
ADULT (OR CHILD)

Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.
U. S. COAST GUARD APPROVAL NO. _____
Lot No. _____

This vest is filled with unicellular plastic foam, which repeated wettings will not injure. When vest is wet, hang up and dry thoroughly.

(Name and Address of Manufacturer)

(b) *Additional marking for child size vests*. For child's medium size buoyant vests, the following additional wording shall be included on the marking tag: "For Children Weighing approximately 45 to 90 pounds." For child's small size buoyant vests, the following additional wording shall be included on the marking tag: "For Children Weighing less than approximately 50 pounds."

(c) *Waterproofness of marking tags*. Marking tags for buoyant vests shall be sufficiently waterproof so that after 48 hours submergence in water, they will withstand rubbing by hand with moderate pressure while wet without the printed matter becoming illegible.

§ 160.052-9 *Procedure for approval—Types I and II vests*—(a) *General*. Buoyant vests for use on motorboats are approved only by the Commandant, U. S. Coast Guard, Washington 25, D. C. Each model vest is considered separately. Application for approval and correspondence pertaining to this specification shall be addressed to the Commander of the Coast Guard District in which the factory is located.

(b) *Approval of Type I vests*. Upon receipt of an application for approval of standard Type I vests, the Commander of the Coast Guard District will detail a marine inspector to the factory to observe the production facilities and manufacturing methods and to select from not less than ten buoyant vests already manufactured not less than three of each model for examination and test for compliance with the requirements of this specification. A copy of the marine inspector's report, together with a fourth specimen vest and one set of buoyant inserts selected from those already manufactured, will be forwarded to the Commandant, and if satisfactory, an official approval number will be assigned to the manufacturer for the Type I vests submitted.

(c) *Approval of Type II vests*. Upon receipt of an application for approval of nonstandard Type II vests, the Commander of the Coast Guard District will

detail a marine inspector to the factory to observe the production facilities and manufacturing methods and to select three sample vests of each model and one set of buoyant inserts for each model for which approval is desired. The sample vests and inserts will be forwarded to the Commandant, together with a copy of the marine inspector's report. At the time the pre-approval samples are selected, the manufacturer shall also submit to the marine inspector four prints each of fully-dimensioned, full scale drawings showing all details of construction of the sample vests submitted, and four copies of a bill of material showing all materials used in the construction of the vests. After examination of the samples, drawings, and other material submitted, the manufacturer will be advised of any changes or corrections considered necessary. The manufacturer will also be informed of the tests that will be required, any additional samples or other material required, and the estimated cost of the tests. Upon payment by the manufacturer of the estimated costs of the tests, the tests will be authorized. If the results of the tests are satisfactory, an official approval number will be assigned to the manufacturer for the Type II vests submitted.

Dated: June 18, 1958.

[SEAL] J. A. HIRSHFIELD,
Rear Admiral, U. S. Coast Guard,
Acting Commandant.

[F. R. Doc. 58-4797; Filed, June 24, 1958;
8:51 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

Subchapter B—Export Regulations

[9th Gen. Rev. of Export Regs., Amdt. 2¹]

PART 368—MUTUAL ASSISTANCE ON U. S. IMPORTS AND EXPORTS (AS APPLIED TO SELECTED U. S. IMPORTS)

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

PART 379—EXPORT CLEARANCE AND DESTINATION CONTROL

PART 380—AMENDMENTS, EXTENSIONS, TRANSFERS

PART 382—DENIAL OR SUSPENSION OF EXPORT PRIVILEGES

PART 383—ADMINISTRATIVE REVIEWS AND APPEALS

MISCELLANEOUS AMENDMENTS

1. Section 368.1 *Import certificate and delivery verification on selected imports into the United States*, paragraph (b) *United States Import Certificate*, subparagraph (6) *Lost or destroyed import certificates* is amended to read as follows:

¹ This amendment was published in Current Export Bulletin 801, dated June 5, 1958 and Current Export Bulletin 802, dated June 12, 1958.

(6) *Lost, destroyed, or unused import certificates*—(i) *Lost or destroyed Import Certificates*. Where an Import Certificate is lost or destroyed, a duplicate copy of such Import Certificate may be obtained by the person in the United States who executed the original Import Certificate by submitting to the Bureau of Foreign Commerce, Operations Division, Washington 25, D. C., or any field office of the Department of Commerce listed in subparagraph (2) of this paragraph, a new set of Forms FC-826 in accordance with the provisions of subparagraph (1) of this paragraph and accompanied by a letter certifying:

(a) That the original Import Certificate No. _____ (if known) dated _____ issued to (name and address of U. S. importer) for importation from (foreign exporter's name and address) has been lost or destroyed;

(b) The circumstances under which it was lost or destroyed; and

(c) If the original Import Certificate is found, the applicant agrees to return the original or duplicate Import Certificate to the Department of Commerce.

(ii) *Unused Import Certificates*. Where the transaction will not be completed and the Import Certificate will not be used, the Import Certificate shall be returned for cancellation to the Bureau of Foreign Commerce, Operations Division, Washington 25, D. C.

2. Section 372.6 *License applications for in-transit shipments*, paragraph (b) *Applicability of special provisions* is amended by deleting the phrase "§ 373.69 of this chapter with respect to Hong Kong Import License, Delivery Verification, and Landing Certificate."

3. Section 373.2 *Confirmation of country of ultimate destination and verification of actual delivery* is amended to read as follows:

§ 373.2 *Confirmation of country of ultimate destination and verification of actual delivery*—(a) *Scope*—(1) *General*.^{*} The provisions of this section shall apply to shipments for which a validated license is required covering the following commodities proposed for export or exported to the following countries:

(i) *Commodities*. The commodities subject to the provisions of paragraph (d) of this section, "Submission of Import Certificate," are those commodities on the Positive List of Commodities (§ 399.1 of this chapter) that are identified by the symbol "A" in the column headed "Commodity Lists." All commodities on the Positive List of Commodities are subject to the provisions of paragraph (g) of this section, "Submission of Delivery Verification."

(ii) *Countries*. Austria, Belgian Congo, Belgium, Denmark, France (including the Saar territory), Federal Republic of Germany, Western Sectors of

^{*} Submission of an Import Certificate does not relieve the parties to the transaction from compliance with the reexportation provisions. (See § 373.12 of this chapter.)

^{*} In certain exceptional instances, an Import Certificate may be required for transactions not involving an exportation from the United States under a validated license. (See § 368.1 (b) (8) of this chapter.)

Berlin, Greece, Hong Kong (see paragraph (c) of this section), Italy (including the area of Trieste under Italian civil administration), Japan, Luxembourg, Netherlands, Norway, Portugal, Turkey, and United Kingdom.

The provisions of this section do not apply to the overseas territories of the countries listed above unless such territories are specifically included in the list.

(2) *Exemptions.* The provisions of paragraph (d) of this section shall not apply to: (i) A shipment or application for export license covering a shipment under a project license (see Part 374 of this chapter); (ii) an application for license to export commodities classified in a single entry on the Positive List the total value of which, as shown on the export order, is less than \$500, except where a multiple transactions Import Certificate is filed in accordance with paragraph (d) (2) of this section; (iii) an application for license to export a commodity to a foreign government or government agency when such government or government agency actually placed the order with the applicant and will take delivery of the exportation when it is received in the importing country; or (iv) a shipment made by a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, International Cooperation Administration, to a member agency in the foreign country.

NOTE: For definition of "government agency", see § 373.65 (a) (2) (iv).

(b) *Definitions.* As used in this section, the terms "Import Certificate," "Delivery Verification," "Hong Kong Import License" or "Landing Certificate," refer to the documents issued by governments of countries listed in paragraph (a) (1) of this section to importers in such countries, and are the equivalent documents to the Import Certificate (Form FC-826) and Delivery Verification (Form FC-908) issued to United States importers (see § 368.1 of this chapter). These documents contain an undertaking by the government issuing the Import Certificate or the Delivery Verification to exercise legal control over the disposition of the commodities covered. This control is in addition to the conditions and restrictions placed on the exportation by the Bureau of Foreign Commerce. The laws and regulations of the United States are in no way modified, changed, or superseded by the issuance of an Import Certificate or Delivery Verification.

(c) *Special provisions for Hong Kong.* With regard to exports to Hong Kong, wherever the term Import Certificate appears in this section, it shall be construed as meaning the duplicate copy of the Hong Kong Import License (Form 3) issued by the Hong Kong authorities containing one of the following stamped endorsements which shall bear the signature of an official of the Hong Kong Government:

(1) For consumption in Hong Kong. Diversion en route prohibited. Re-export not permitted except under special license and subject in addition to general or specific

concurrence of government of supplying country concerned.

(2) For re-export to -----
(Approved destination)

Diversion en route prohibited. To be delivered by shipping or airline company concerned to Govt-designated godown. Overseas delivery not permitted. Release from godown subject to approval of export license.

(3) For consumption in Hong Kong or re-export to approved destinations. Diversion en route prohibited. Re-export subject to issue of export license.

Wherever the term Delivery Verification appears in this section, it shall be construed as meaning the Hong Kong Delivery Verification (C&I Form 229) or the Hong Kong Landing Certificate (C&I Form 42). The latter form (C&I Form 42) is acceptable only where the Hong Kong Government does not issue its Delivery Verification Form (C&I Form 229). (See § 372.2 (g) for delivery verification requirements.)

(d) *Submission of Import Certificate—*

(1) *Single transaction Import Certificate.* (i) The applicant shall attach to his license application, covering a proposed exportation described in paragraph (a) of this section the original Import Certificate, bearing the official authentication of the government authorities in the importing country, issued to the named importer or his agent and covering the commodity or commodities described in the export license application.

NOTE: As indicated in this paragraph, the original Import Certificate shall be attached to the license application. A reproduced copy (photostat or other type) of the Import Certificate will not be accepted by the Bureau of Foreign Commerce.

(ii) Where the single transaction Import Certificate covers commodities for which more than one export license application is submitted, the original Import Certificate shall be attached to the first such application. On each subsequent application the following certification shall be inserted in the space entitled "Additional Information" or on an attachment thereto:

I (We) certify that the quantities of commodities shown on all export licenses based on the -----
(Name of country)

Import Certificate) or (Hong Kong Import License) No. -----, when added to the quantities shown on all additional applications pending in the Bureau of Foreign Commerce based on the same Import Certificate, including the present application, do not total more than the quantities shown on that Import Certificate. This Import Certificate was submitted in support of Application No. -----

(BFC case number, or if case number is unknown, the applicant's reference number, date of submission of the application to which the Import Certificate or Hong Kong Import License was attached and Schedule B numbers and processing codes shown on that application)

NOTE: Whenever possible, the Bureau of Foreign Commerce case number should be indicated on the certification set forth in this paragraph since failure to supply the Bureau of Foreign Commerce case number may

* For Hong Kong, see § 373.2 (c).

result in delay in processing the license application.

(2) *Multiple transactions Import Certificates.* Exporters may submit to the Bureau of Foreign Commerce an original Import Certificate, if issued by a foreign government, covering all proposed exportations of a commodity or commodities, regardless of value (including commodities based on export orders amounting to less than \$500), for a specific period or if no specific period is shown, for a specific quantity or value. The applicant shall attach to the first license application covered by the multiple transactions Import Certificate, the original Import Certificate, bearing the official authentication of governmental authorities in the importing country. On each subsequent application for export license submitted against the multiple transactions Import Certificate, one of the following certifications (depending on whether a quantity is shown on the Import Certificate) signed by the applicant, shall be inserted on the application in the space entitled "Additional Information" or on an attachment thereto:

I (We) certify that the quantities of commodities shown on all export licenses based on the ----- Import Certificate
(Name of country)

Import Certificate) or (Hong Kong Import License) No. -----, when added to the quantities shown on all additional applications pending in the Bureau of Foreign Commerce based on the same Import Certificate, including the present application, do not total more than the quantities shown on that Import Certificate. This Import Certificate was submitted in support of application No. -----

(BFC case no. or if BFC case no. is unknown the Applicant's reference no., date of submission of the application to which the Import Certificate or Hong Kong Import License was attached and Schedule B Nos. and Processing Codes shown on that application)

or (if no quantity is shown on the certificate):

I (We) certify that this application is supported by the multiple transactions -----
(Name of country)

(Hong Kong Import License) No. -----, which was submitted in support of application No. -----

(BFC case no. or if BFC case no. is unknown the applicant's reference no., date of submission of the application to which the Import Certificate or Import License was attached, and Schedule B Nos. and processing codes shown on that application)

(3) *Requirements applicable to both single and multiple transactions Import Certificates—*(1) *Translation requirements.* All abbreviations, coded terms, or other expressions having special significance in the trade or to the parties to the transaction shall be explained. Commodities shown in quantities other than Positive List units shall be converted into Positive List units. Documents in a foreign language shall be accompanied by an accurate English translation. Such translation need not be made by a translating service, but, if not, shall be certified by the applicant to be a correct translation.

(ii) *Purchase order.* The Import Certificate may cover more than one purchase order and may be concerned with several commodities, including commodities for which an Import Certificate is not required under paragraph (a) (1) of this section; however, the Import Certificate shall relate only to purchase orders placed by a single importer located in a single foreign country with a single United States exporter.

(iii) *Parties named on the certificate.* The Import Certificate may be accepted from either the ultimate consignee or the purchaser if they are different parties located in the same country. If the ultimate consignee and the purchaser are not located in the same country, an Import Certificate, an ultimate consignee statement, or other applicable equivalent document is required from the party located in the country of ultimate destination. The United States exporter named in the Import Certificate must appear as applicant, supplier, or order party on the United States license application.

(iv) *Validity period.* An Import Certificate submitted to the Bureau of Foreign Commerce after its expiration date will be returned to the applicant for amendment or submission of a new Import Certificate. The expiration date of an Import Certificate in no way affects the validity period for which an export license is granted.

(v) *Applicant's responsibility for full disclosure.* In submitting an Import Certificate, the applicant is not relieved of responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, whether or not inconsistent with the representations set forth in the Import Certificate. In accordance with the provisions of § 368.1 of this chapter, the applicant also shall, by means of supplementary statements from the importer or any other party to the transaction, notify the Bureau of Foreign Commerce of any change that is brought to his notice subsequent to the date the Import Certificate is issued.

(4) *Import Certificate as a factor in licensing.* (i) The Bureau of Foreign Commerce reserves the right in all respects to determine to what extent any license shall be issued covering commodities for which a foreign government has issued an Import Certificate.

(ii) Generally commodities licensed by the Bureau of Foreign Commerce on the basis of dollar value will not be licensed in excess of the dollar value shown on the Import Certificate and commodities licensed on the basis of units of measure will not be licensed in excess of the units shown on the Import Certificate.

(iii) The Bureau of Foreign Commerce will not seek, or undertake to give consideration to recommendations from a foreign government as to which United States exporter's license application should be approved. An Import Certificate will be used by the Bureau of Foreign Commerce as only one of the con-

siderations upon which licensing action will be based, since quotas, end uses, and other considerations remain important factors in export licensing.

(e) *Return of Import Certificate.* (1) The United States exporter may be requested by his foreign importer to return an unused or partially used Import Certificate. In such case, the United States exporter shall forward the Import Certificate to his importer as soon as he determines that the Import Certificate will not be used with a new or resubmitted application for export, or an appeal.

(2) Failure on the part of the United States exporter to comply with his foreign importer's request will result in the importer's inability to fulfill his obligations to his government and may result in the foreign importer being denied further Import Certificates. This action obviously would prevent the United States exporter's participation in further export transactions with such foreign importer. In addition, the foreign importer may be subjected to other penalties for his failure to return the Import Certificate.

(3) The Bureau of Foreign Commerce will not return an Import Certificate to the United States exporter where the total quantity shown on the Import Certificate has been shipped or is covered by an outstanding export license(s) except as indicated in this subparagraph. In order to comply with a foreign importer's request for the return of an unused or partially used Import Certificate, an Import Certificate on file in the Bureau of Foreign Commerce will be returned to the exporter in accordance with the procedures described below:

(i) Where an Import Certificate covers a quantity in excess of the export license applications submitted against it, or does not specify the quantity covered, the Bureau of Foreign Commerce will retain the Import Certificate until such time as the exporter requests return thereof. When requesting return of the Import Certificate, the exporter should submit his request in writing, showing the name and address of the named importer, Bureau of Foreign Commerce case numbers to which the Import Certificate applies, Import Certificate number, and statement that such Import Certificate will not be used in connection with a new or resubmitted application for export. Appropriate notation will be made on the Import Certificate by the Bureau of Foreign Commerce.

(ii) The Bureau of Foreign Commerce will automatically return the applicable Import Certificate to the United States exporter (applicant) whenever an application for export covers the same type and amount of the commodity as that shown on the Import Certificate but such application is rejected or approved in a reduced quantity. Appropriate notation will be made on the Import Certificate by the Bureau of Foreign Commerce. In some cases the Import Certificate covering an application rejected by the Bureau of Foreign Commerce for other than quota reasons will be returned directly

to the government which issued the certificate. In such cases the applicant will be notified of this action. In any event, the government issuing the Import Certificate will be notified if the export application which it covers is rejected.

(iii) In instances where the United States exporter does not intend to ship the total quantity of commodities for which a license has been issued and desires the return of the Import Certificate, he should submit his request in writing for return of the Import Certificate, together with a request for cancellation or amendment of the unexpired license to show the quantity which he intends to ship. (See § 380.2 of this chapter.) In such cases the exporter shall submit the amendment form, Form IT- or FC-763 (in addition to the letter request), as provided by the regular amendment procedure. Appropriate notation will be made on the Import Certificate by the Bureau of Foreign Commerce.

(f) *Requests for amendments.** A new or appropriately amended Import Certificate shall accompany a request for an amendment of an export license which proposes a change in any party to the transaction named in the export license or any increase in the quantity set forth in the export license if the proposed amendment is not in accordance with the Import Certificate previously submitted to the Bureau of Foreign Commerce. If a proposed quantitative amendment is in accordance with the previously submitted Import Certificate, the amendment request shall include the following certification:

I (We) certify that this request for amendment of export license No. _____, if granted, will not exceed the total quantity authorized under the (_____) (Name of country) Import Certificate) or (Hong Kong Import License) No. _____.

(g) *Submission of Delivery Verification.*—(1) *Notification of requirement.* (i) The licensee may be requested by the Bureau of Foreign Commerce to submit a Delivery Verification with respect to any commodities exported under a validated license to a country listed in paragraph (a) of this section, including commodities not subject to paragraph (d) of this section and exemptions and exceptions granted under the provisions of paragraphs (a) (2) and (j) of this section. Where a Delivery Verification is required, the face of the export license will bear the stamped words "Delivery Verification Required, see attached Form FC-863." In addition, Form FC-863, Notification of Delivery Verification Requirement, will be attached to the license. Where a Form FC-863 is attached to a license forwarded by the Bureau of Foreign Commerce to an agent or freight forwarder of the licensee, it shall be the responsibility of such agent or freight forwarder to notify the licensee that a Delivery Verification is required.

*Section 380.2 of this chapter contains other provisions applicable to amendments of applications covered by an Import Certificate.

(ii) The requirement that a Delivery Verification be submitted for a particular export transaction is cancelled automatically if subsequent to the issuance of a license, the commodity is deleted from the Positive List, or the symbol "A" in the Commodity Lists column is removed from the commodity listing on the Positive List.

(2) *Submission to the Bureau of Foreign Commerce.* When notified to do so by the Bureau of Foreign Commerce, any person issued licenses covering shipments within the scope of this section shall:

(i) Transmit to the foreign importer a written request for delivery verification at the time of making each shipment under the license, (whenver possible, this request shall be submitted together with the related Bill of Lading or Air Waybill); (ii) obtain from the named importer a Delivery Verification which has been issued to the importer by his government covering the commodities described on the particular export license, or so much thereof (when complete shipment against the license will not be made) as the licensee will have shipped; and (iii) send the original copy of the Delivery Verification to the Bureau of Foreign Commerce within a reasonable time after clearance of the last exportation made under the license. If a Delivery Verification is required with respect to commodities covered by a license and the licensee makes partial shipments against the license, the licensee shall obtain a Delivery Verification for each partial shipment and retain it in his files until all Delivery Verifications respecting shipments against the license have been received by him. The licensee shall then send the original copies of all such Delivery Verifications to the Bureau of Foreign Commerce in one parcel.

(3) *Inability to obtain a Delivery Verification.* If an exporter is unable to obtain the required Delivery Verification from his importer, he shall promptly notify the Bureau of Foreign Commerce, and upon request, make available to the Bureau of Foreign Commerce all information and records, including correspondence regarding his attempt to obtain the Delivery Verification.

NOTE 1. Delivery Verifications. It is the policy of the Bureau of Foreign Commerce to require Delivery Verifications on a selective basis where Import Certificates are required. Also, Delivery Verifications may be required relative to export licenses issued for exportation to any of the countries participating in the Import Certificate/Delivery Verification procedure, even though the licensed commodities are not subject to § 373.2 (d), or are commodities for which exemptions and exceptions have been granted under the IC/DV procedure.

NOTE 2. Translation requirements. See § 373.2 (d) (3) (i).

(h) *Effective dates.* Whenever the scope of this section is extended by adding commodities or countries to those described in paragraph (a) of this section, such changes shall become effective 45 days from the time such new commodities or countries are added.

(i) *Relationship to ultimate consignee statements.* The requirement for submission of consignee/purchaser statements specified in § 373.65 shall not be applicable wherever Import Certificates are submitted pursuant to the requirements of this section.

(j) *Request for exception.* An applicant for an export license subject to the requirement for an Import Certificate in accordance with the provisions of paragraph (d) of this section may request an exception to this requirement.

(1) *Grounds for exception.* An exception will not be granted where such exception will be contrary to the objectives of the United States export control program. Otherwise, favorable consideration of the request for exception generally will be given where the requirement for an Import Certificate:

(i) Imposes an undue hardship on the applicant and/or ultimate consignee (e. g., the commodities will be held in a foreign trade zone or bonded warehouse for subsequent distribution in one or more countries); or,

(ii) Cannot be complied with because the foreign country refuses to issue an Import Certificate and such refusal constitutes discrimination against the United States exporter; or,

(iii) Is not applicable to the transaction (e. g., the commodities will not be imported for consumption into the named country of destination).

(2) *Types of request.* (i) A request for exception may involve either a single transaction or multiple transactions. The single transaction exception relates to a single export order and, if granted, will cover the application or applications which the exporter submits to ship the single export order. The multiple transactions exception, if granted, will cover all applications submitted by the exporter during all or any part of the period ending not later than June 30 of the year following the year during which the request is submitted. For example, a multiple transactions request submitted on April 1, 1958 may cover all applications for shipment to the ultimate consignee filed on or before June 30, 1959, unless an earlier termination date is requested.

(ii) A multiple transaction request for exception will be considered by the Bureau of Foreign Commerce only where the reason necessitating the request is continuing in nature.

(3) *When to submit request.* The request for exception shall be submitted together with the application to which it relates. Where the request for exception relates to more than one application, the request shall be submitted together with the first application to which it relates.

(4) *How to submit request.* Each request for exception shall be by letter, in duplicate, addressed to the Bureau of Foreign Commerce, Department of Commerce, Washington 25, D. C. The request shall be accompanied by a statement from the ultimate consignee and purchaser in accordance with § 373.65, un-

less such statement is already on file in the Bureau of Foreign Commerce. As a minimum, the letter of request shall include:

(i) The type of request, i. e., whether for a single transaction or multiple transactions (see subparagraph (2) of this paragraph).

(ii) A full explanation of the reason or reasons for requesting the exception.

(iii) Whether the exporter has previously submitted to the Bureau of Foreign Commerce any Import Certificate issued in the name of the importer.

(iv) Whether a statement from the ultimate consignee and purchaser, in accordance with § 373.65, is on file with the Bureau of Foreign Commerce.

(v) Name and address of the ultimate consignee. If the commodities will be exported to a foreign trade zone or bonded warehouse, include the location of the foreign trade zone or bonded warehouse.

(vi) Name and address of the purchaser, if different than the ultimate consignee.

(vii) If a multiple transactions exception is requested (see subparagraph (2) of this paragraph) and the exporter wishes the exception period to expire before June 30 of the next year, state the requested date of expiration.

(5) *Action by Bureau of Foreign Commerce—(i) Single transaction request.* For a single transaction request the Bureau of Foreign Commerce will act on the request for exception together with the application for export license with which the request for exception was submitted. In those cases where the related application is approved, the issuance of the export license will serve also as an automatic notice to the exporter that the exception is approved. However, if any restrictions are placed on the approval, or if the request is disapproved, the Bureau of Foreign Commerce will advise the exporter by letter.

(ii) *Multiple transactions request.* Where the request involves multiple transactions, the Bureau of Foreign Commerce will advise the exporter by letter of the action taken on the request for exception. The letter will contain any conditions or restrictions which the Bureau of Foreign Commerce finds necessary as a condition to approval of the request for exception. In addition, a written acceptance of these conditions will be required from the parties to the transaction.

(6) *Submission of additional applications.* Any additional application for export license which is subject to an approved request for exception to the Import Certificate requirement shall contain the following certification in the "Additional Information" item of the application, or on an attachment to the application:

I (We) certify that the circumstances shown in the original request for exception to submission of an Import Certificate or Hong Kong Import License also exists with respect to this application. The request for

exception was submitted in support of application No.

(BFC case No. or if BFC case No. is unknown, the Applicant's reference No., date of submission of the application to which the request for exception was attached, and Schedule B Nos. and Processing Codes shown on that application)

(7) *Relationship to reexportation.* The granting of an exception to submission of an Import Certificate in no way relieves the applicant or any other party to the transaction from obtaining reexportation authorization from the Bureau of Foreign Commerce when so required by this subchapter.

4. Section 373.40 *Iron and steel* is amended by revoking paragraph (c) *Re-rolling rails, Schedule B No. 60095*, and paragraph (d) *Relaying rails and other used rails, except for scrap and for re-rolling, Schedule B No. 60530*.

5. Section 373.65 *Ultimate consignee and purchaser statements*, paragraph (a) (2) *Exemptions* is amended by deleting the phrase "a Hong Kong Import License as provided in § 373.69" in subdivision (1).

6. Section 373.69 *Hong Kong* is revoked.

7. Section 373.81 *Supplement 1; Time schedules for submission of applications for licenses to export certain Positive List commodities* is revoked.

8. Section 379.4 *Authentication of declaration*, paragraph (d) *Additional information required for in-transit goods*, subparagraph (3) is amended to read as follows:

(3) The commodities to be exported shall be described in terms of Schedule B, including the appropriate Schedule B number; and shall be entered in item 4 of the declaration. If the commodities are transported by other than air, the Schedule S number^{*} shall be entered also on the declaration.

9. Section 380.2 *Amendments or alterations of licenses*, paragraph (j) *Licenses covered by an Import Certificate, a Swiss Blue Import Certificate, a Hong Kong Import License, or a Yugoslav End-Use Certificate* is amended by deleting the phrase "a Hong Kong Import License" in the heading, and the phrase "the Hong Kong Import License procedure (§ 373.69 of this chapter)" in the section.

10. Section 382.51 *Supplement 1; Table of denial and probation orders currently in effect*, paragraph (b) *Table of denial and probation orders* is amended in the following respects:

a. The following entries are added to the list:

*Schedule S numbers, by commodity groupings, are contained in Schedule S, Statistical Classification of Domestic and Foreign Merchandise Exported from the United States, obtainable without charge from the Bureau of the Census, Department of Commerce, Washington 25, D. C.

No. 124—4

Name and Address	Effective date of order	Expiration date of order	Export privileges affected	FEDERAL REGISTER citation
Alfa Electric Co. Ltd., Chancery House, 53-54 Chancery Lane, London, W. C. 2, England.	5-21-56	Duration.....	General and validated licenses, all commodities, any destination, also exports to Canada. (Company related to Zemanek & Co., Ltd., which sec.)	21 F. R. 3609, 5-25-56.
Bordin, Emilio F., Genferstrasse 24, Zurich, Switzerland.	4-3-58	4-3-59 (on probation 4-4-59—duration). ¹	General and validated licenses, all commodities, any destination, also exports to Canada.	23 F. R. 2283, 4-8-58.
Depoorter, Paul, dba Fortior, De Smet de Nayerlaan 12, Ostend, Belgium.	3-17-58	Duration.....	do.	23 F. R. 1860, 3-20-58.
Elgler, Georg, Lillengasse 1, Vienna 1, Austria.	12-17-57	Until further notice.....	do.	23 F. R. 2232, 4-4-58.
Felix, Maria, dba Internationale Transporte, Paradiesstrasse 9, Zurich, Switzerland.	5-19-58	Duration.....	do.	23 F. R. 3549, 5-22-58.
Fortior, De Smet de Nayerlaan 12, Ostend, Belgium.	3-17-58	do.	do.	23 F. R. 1860, 3-20-58.
Industrie-Warenverkehr, Lillengasse 1, Vienna 1, Austria.	12-17-57	Until further notice.....	do.	23 F. R. 2232, 4-4-58.
Internationale Transporte, Paradiesstrasse 9, Zurich, Switzerland.	5-19-58	Duration.....	do.	23 F. R. 3549, 5-22-58.
Li, Hsiu Kuang (alias S. K. Lai) 59 Queen's Road Central, Hong Kong, and Room 604, Fukoku Bldg., Uchisaiwai-cho, 2-Chome, Chiyoda-Ku, Tokyo, Japan.	1-31-56	do.	do.	21 F. R. 775-777, 2-3-56.
Oleine S. A., Genferstrasse 24, Zurich, Switzerland.	4-3-58	4-3-59 (on probation 4-4-59—duration). ¹	do.	23 F. R. 2283, 4-8-58.
Rei, Shu Ko (alias S. K. Lai), 59 Queen's Road Central, Hong Kong, and Room 604, Fukoku Bldg., Uchisaiwai-cho, 2-Chome, Chiyoda-Ku, Tokyo, Japan.	1-31-56	Duration.....	do.	21 F. R. 775-777, 2-3-56.
Rudy-Patrick Seed Co., 1212 West 5th St., Station A, Kansas City 1, Mo.	4-15-58	5-15-58 (on probation 5-16-58 to 4-15-59). ¹	General and validated licenses, all commodities, any destination, also exports to Canada.	23 F. R. 2541, 4-17-58.
Schulthess, Johannes, 69 Stumpfenbachstrasse, Zurich, Switzerland.	3-1-57	10-1-59 (on probation 10-2-59—duration). ¹	General and validated licenses, all commodities, any destination, also exports to Canada. (Company related to K. Burgli-Tobler & Co., which sec.)	22 F. R. 1343, 3-5-57.
Soc. Generale d'Entreprises, Maritimes "Sogemar" S. A., 14 Rue du Margrave, Antwerp, Belgium.	5-15-58	Indefinite.....	General and validated licenses, all commodities, any destination, also exports to Canada.	23 F. R. 3417, 5-20-58.
Sogemar, S. A., 14 Rue du Margrave, Antwerp, Belgium.	5-15-58	do.	do.	23 F. R. 3417, 5-20-58.
Steuerungstechnik und Messgeräte, G. M. B. H., Wahlingerstrasse 12, Vienna IX, Austria.	5-8-58	do.	do.	23 F. R. 3158, 5-13-58.
Universal Leaf Tobacco Co., Inc., 201 S. Third St., Richmond, Va.	(3-11-58)	(On probation 3-11-58 to 9-11-58). ¹	do.	23 F. R. 1765, 3-14-58.
Van Doorn & Co., N. V., Van Doorn, B. A., Rederijstraat 3, Rotterdam, Netherlands.	5-5-58	8-18-58 (on probation 8-19-58 to 5-5-59). ¹	General and validated licenses, all commodities, any destination, also exports to Canada.	23 F. R. 3072, 5-8-58.
Vantol, J. H., Ltd., Norfolk House, Laurence Pountney Hill, Cannon Street, London, E. C. 4, England.	5-5-58	7-4-58 (on probation 7-5-58 to 5-5-59). ¹	do.	23 F. R. 3072, 5-8-58.
Wijzenan, Johan Hendrik, Rederijstraat 3, Rotterdam, Netherlands.	5-5-58	11-3-58 (on probation 11-4-58 to 5-5-59). ¹	do.	23 F. R. 3072, 5-8-58.
Zee, Mohan, Post Office Box 666, Hong Kong.	5-5-58	Indefinite.....	General and validated licenses, all commodities, any destination, also exports to Canada. (Suspension for 18 months or as long as Treasury Dept. designated national, whichever longer.)	23 F. R. 3156, 5-13-58.

¹ Although the named person or firm is entitled to all export privileges during this probation period, these privileges may be revoked upon a finding that the probation has been violated.

b. The following entry is deleted from the list:

Name and address	Effective date of order	Expiration date of order	Export privileges affected	FEDERAL REGISTER citation
Koenig, Karl, 6 Romerstrasse, Munich 23, Germany.	2-21-57	Indefinite.....	General and validated licenses, all commodities, any destination, also exports to Canada.	22 F. R. 1153, 2-27-57.

11. Part 383—Appeals is amended to read as follows:

PART 383—ADMINISTRATIVE REVIEWS AND APPEALS

§ 383.1 *General provisions*—(a) *Purpose*. This part sets forth the procedures applicable to: (1) The consideration of requests for administrative review by the Bureau of Foreign Commerce of protested regulations and actions of the Bureau of Foreign Commerce, and (2) appeals to the Appeals Board for the Department of Commerce.

(b) *Definitions*. For purposes of this part:

(1) "Regulation" means any provision of a regulation or order published in the *FEDERAL REGISTER* or announcement thereof in a Current Export Bulletin which is applicable generally to all persons or to a class of persons.

(2) "Administrative action" means any action including a return without action of a license application, taken by the Bureau of Foreign Commerce or by a duly authorized employee thereof under a regulation with respect to a particular person.

(3) "Administrative review" means a request for relief, as provided in § 383.2, from the provisions of a regulation or an administrative action of the Bureau.

(4) "Appeal" means a request for relief, as provided in § 383.3, from the provision of a regulation or of an administrative action, and includes a request for relief from a decision issued by the Bureau of Foreign Commerce upon a request for administrative review.

(5) "Petitioner" means a person filing a request for an administrative review.

(6) "Appellant" means a person filing an appeal.

(c) *Grounds for requesting administrative review and appeal*. (1) Any person may request an administrative review as provided in § 383.2 or may appeal to the Appeals Board for the Department of Commerce as provided in § 383.3, as appropriate, from any regulation, order (excluding denial or probationary orders), or other administrative action taken by the Department of Commerce under the Export Control Law or delegated authority relating thereto, where such regulation, order, or other administrative action works an exceptional and unreasonable hardship upon him, or improperly discriminates against him.

(2) However, problems of an over-all nature, affecting exporters as a group, will not be considered within this procedure, but may be referred to Commodity Advisory Panels and Commodity Advisory Committees as provided in § 384.1 of this chapter.

§ 383.2 *Administrative review*—(a) *Scope*. The Bureau of Foreign Commerce will consider a request, submitted in accordance with the provisions of this section for an administrative review of

any Bureau of Foreign Commerce regulation or administrative action (other than a denial or probationary order) as specified in § 383.1 (c).

(b) *Submission of request for administrative review*—(1) *Request for administrative review must be in writing*. A request for administrative review and accompanying material shall be filed in duplicate, unless otherwise indicated below. If the submission of two copies of all accompanying documents or exhibits would place an undue burden on the petitioner, waiver of this rule may be requested at the time the request is filed. A request for administrative review shall be in letter form.

(2) *Information to be contained in requests for administrative review*. A request for administrative review shall clearly state (i) the provisions of the regulation or the administrative action which is protested, (ii) the grounds for the request, and (iii) the relief requested by the petitioner. The various grounds for the request shall be separately stated and numbered, with a clear and concise statement of all facts alleged in support of each ground.

(3) *Additional requirements for specified requests for administrative review*. In addition to the above-described letter, the following papers shall be included with requests of the kinds described in this subparagraph.

(i) Request for administrative review of rejection of license application shall include (a) the Notification of Rejection (Form IT- or FC-204A), (b) a new original copy of the rejected license application (Form FC-419) and (c) an acknowledgment card (Form FC-116) showing the old case number.

(ii) Request for administrative review of a multiple commodity or a multiple consignee application disallowed in part shall include (a) a complete new application covering only the rejected items, and (b) the appropriate Acknowledgment Card (Form FC-116) showing the old case number.

(iii) Request for administrative review of rejection of request for extension of license or other amendment shall include (a) the license unless it has been previously surrendered to the Department of Commerce or a Collector of Customs, and (b) the Request for and Notice of Amendment Action (Form IT-763).

(iv) Request for administrative review of denial of request to transfer an export license shall include (a) letter of request for transfer from the transferor and transferee, (b) the original license unless the license is on file with the Bureau of Foreign Commerce or has been surrendered to a Collector of Customs, and (c) the Request for and Notice of Amendment Action (Form IT-763) if this form was submitted to the Bureau of Foreign Commerce.

(c) *When and where to file a request for administrative review*. A request for administrative review shall be filed not later than 45 days after the publication date of a regulation, or the date of notification of administrative action. A

request for administrative review shall be filed with and addressed to the Bureau of Foreign Commerce, Department of Commerce, Washington 25, D. C., Ref: "Administrative Review."

(d) *Decisions*. A request for relief may be granted or denied, in whole or in part. If the decision in an administrative review of a licensing action is favorable to the petitioner, the license or amendment will be granted in answer to the petition. Decisions on other types of administrative reviews will be furnished to the petitioner in writing. If the decision is unfavorable, he may appeal to the Appeals Board in accordance with the provision of § 383.3.

§ 383.3 *Appeals*—(a) *Establishment and scope of Appeals Board*. (1) The Appeals Board for the Department of Commerce has been established as an impartial body in the Office of the Secretary to consider appeals and render final decisions thereon. The Board consists of a Chairman and two members.

(2) Any person may appeal to the Appeals Board, upon the grounds indicated in § 383.1 (c), in accordance with the following provisions of this section.

(b) *Preparation of appeals*—(1) *General requirements*. (i) an appeal shall be clearly marked "Ref: Appeals Board for the Department of Commerce" and shall be in letter form. The appeals letter shall be prepared in accordance with § 383.2 (b) and shall be accompanied by the same information and documents specified therein.

(ii) Where an appeal is filed from a decision on an administrative review, the appellant may request Bureau of Foreign Commerce, in writing, to transmit to the Appeals Board the documentation originally submitted to Bureau of Foreign Commerce in accordance with § 383.2 (b) as the required initial documentation.

(2) *Request for oral presentation*. A request for an oral presentation before the Appeals Board, as provided in paragraph (d) (3) of this section, must be in writing and should be included with the appeal.

(c) *When and where to file appeals*—(1) *When to file*. Appeals, other than appeals from denial or probationary orders, may be filed with the Appeals Board by means of a written notice filed not later than 45 days after the appellant received notice from the Bureau of Foreign Commerce of any regulation or administrative action. Appellant may also appeal from undue delay in acting on appellant's license application.

(2) *Where to file*. All appeals shall be addressed to the Appeals Board for the Department of Commerce, Department of Commerce, Washington 25, D. C.

(d) *Consideration of appeals*—(1) *Initial referral to the Bureau of Foreign Commerce*. Customarily, any appeal

* See §§ 382.4, 382.11, 382.13, and 382.15 of this chapter for the appeals procedure regarding denials of export privileges.

* A rejection of an export license application on the ground that the proposed exportation is contrary to the national interest may be appealed.

* See §§ 382.4, 382.11, 382.13, and 382.15 of this chapter for the appeals procedure regarding denials of export privileges.

which has not already been considered under administrative review (see § 383.2) is initially referred by the Appeals Board to the Bureau of Foreign Commerce. After appropriate action, the Bureau will submit its recommendation for the consideration of the Board.

(2) *Referral by the Bureau of Foreign Commerce.* Where unusual circumstances warrant, the Bureau of Foreign Commerce may, on its own initiative, request the Appeals Board to consider an application for an export license at the Appeals level. In such case the Appeals Board will so notify the appellant.

(3) *Oral presentations.* In a case where the appellant so requests or the Appeals Board believes it to be necessary to a proper determination, the appellant may be granted an opportunity to present orally further facts and argument. A date will be set and notice of the time and place (in Washington, D. C.) will be given the appellant by the Appeals Board at least 10 days before the date set for the oral presentation unless waived by appellant. Such presentation will be heard informally; generally, no oaths will be administered to witnesses; and the Appeals Board will not necessarily abide by the rules of evidence. An appellant need not be represented by counsel unless he so wishes.

(4) *Records.* Records concerning an appeal may be made available for inspection and copying by persons properly concerned, upon written application. Such application shall be addressed to the Appeals Board for the Department of Commerce, Department of Commerce, Washington 25, D. C., and shall set forth the applicant's interest, a description of the material or information contained in the record to be inspected or copied, and the purposes for which it is sought.

(5) *Decisions.* All appeals will be considered and decided within a reasonable time after they are filed. An appeal may be granted or denied, in whole or in part or dismissed at the request of the appellant. The decision on an appeal signed by the Chairman of the Appeals Board will be communicated to the appellant in writing.

This amendment shall become effective as of June 5, 1958, except that the provisions of Parts 4 and 7 shall become effective as of June 12, 1958.

(Sec. 3, 63 Stat. 7, as amended; 50 U. S. C. App. 2023, E. O. 9630, 10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 9919, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,
Bureau of Foreign Commerce.

The provisions of Part 383 set forth in this amendment relating to appeals to the Appeals Board for the Department of Commerce are hereby adopted as the rules of the Appeals Board for the Department of Commerce.

FREDERIC W. OLMSTEAD,
Chairman,
Appeals Board.

[F. R. Doc. 58-4752; Filed, June 24, 1958; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12269; FCC 58-599]

[Rules Amdt. 34-6, 35-5]

PART 34—UNIFORM SYSTEM OF ACCOUNTS FOR RADIOTELEGRAPH CARRIERS

PART 35—UNIFORM SYSTEM OF ACCOUNTS FOR WIRE-TELEGRAPH AND OCEAN-CABLE CARRIERS

DEFERRED CREDITS

1. The Western Union Telegraph Company, by letter dated August 6, 1956, requested the Commission to amend Part 35 of its rules and regulations (Uniform System of Accounts for Wire-telegraph and Ocean-cable Carriers): (A) To delete paragraph (a) (14) of § 35.41-7 Maintenance expenses, or clarify its intent so as to exclude private wire service installations, and (B) to include in § 35.31-2 Basis of credits to operating-revenue accounts, a provision which would permit the amortization over appropriate periods, of revenue items considered to be both so large and so infrequent that their inclusion in the revenue accounts in total as they accrue would seriously distort annual operating revenues. Section 35.41-7 (a) (14), presently requires that the costs of installation, equipment changes, and similar services for which the carrier is reimbursed in whole or in part, or for which a charge is made by the carrier, shall be charged to maintenance expenses. There is no provision in Part 35 permitting the spreading of revenue items beyond the months of the current calendar year.

2. The Commission on December 11, 1957, adopted a notice of proposed rule making which was published in the FEDERAL REGISTER on December 19, 1957 (22 F. R. 10227) in accordance with section 4 (a) of the Administrative Procedure Act. This notice proposed that § 35.41-7 (a) (14) of Part 35 of the Commission's rules be deleted and § 35.31-2 (a) be amended by the addition of certain new text which would meet the main objectives outlined in Western Union's request. In addition, it was proposed to similarly amend Part 34, Uniform System of Accounts for Radiotelegraph Carriers, since it is generally parallel to Part 35, by the deletion of § 34.41-5 (a) (11) and by the addition of certain new text to § 34.31-2 (a). The notice further provided that comments on the proposal would be received through January 20, 1958 and that twenty additional days would be allowed for filing of comments and briefs in reply to the original comments.

3. The time for filing comments and briefs in reply thereto on the above-mentioned proposed rule making has expired and the only comments received were from The Western Union Telegraph Company and RCA Communications, Inc.

4. Western Union, in its comments on the proposed amendments to Part 35, endorsed the proposed deletion of

§ 35.41-7 (a) (14), which would thereby provide for capitalization in the plant accounts of costs of installation even though the carrier is reimbursed therefor in whole or in part by lump-sum initial charge. Western Union also endorsed, in general, the proposed amendment to § 35.31-2 (a), which would provide for the spreading to future accounting periods of large amounts billed to customers for installation charges. The Carrier, however, expressed its opposition to the provision that application to and approval by the Commission must be obtained in each instance in which it desires to amortize installation charges to the revenue accounts beyond the end of the current calendar year.

5. Western Union, in support of its position, contends that the monthly charges for the use of equipment over the period of its use by the customer have been lowered because of the payment of the initial installation charge, and also by the diminution of the rate base for the particular leased item by the amount of the installation charge. As a result, the Carrier contends that in order to equalize the total revenues over the period of the lease, this advance payment made by the customer should, in theory, be amortized to revenue over the period of the contract. However, as a practical matter, Western Union recognizes that it may not be necessary to maintain the mass of detail which would be required to amortize every minor installation charge over the period of the lease to which it applies. On the other hand, Western Union objects to submitting the full circumstances with respect to each major installation which it wishes to amortize. Furthermore, in any year the first, second or third installation charge of \$25,000 (see next paragraph) may not be distortive, but the aggregate of all such credits may become distortive.

6. Western Union has suggested that the proposed amendment to § 35.31-2 (a) should be modified to require all individual installation charges in excess of \$25,000 to be amortized without further authorization from the Commission; that, where the installation is covered by a long-term contract, such amortization would be over a reasonable period not in excess of the contract period; and that, where such amount over \$25,000 is not covered by a specific-term contract, such amount be amortized over a period not to exceed five years.

7. RCA Communications, Inc., commenting on the proposed rule making, favors the amendment of § 34.31-2 (a) to require the amortization, upon approval of the Commission, of large revenue items which would seriously distort annual operating revenues. However, RCAC opposes the proposed deletion of § 34.41-5 (a) (11) of the Commission's Rules. RCAC recommends that the carriers be granted the option of either following the proposed procedure of capitalizing installation costs for which a charge is made to the customer, or of following the presently prescribed procedure of expensing such costs, with an additional proviso in the latter instance that the

charges must be minor in nature, and further that each carrier maintains a consistent policy in this regard. RCAC contends that since its installation costs are not comparable in size with those for Western Union's private wire systems, it would appear more appropriate to follow the present practice of treating them as expenses.

8. RCAC's proposal would be inconsistent with the generally accepted theory that all plant accounts should reflect the cost of plant in place. It is recognized that such practices were permitted in the past as an exception to the general rule. However, it is believed that it would be undesirable to permit the carriers the option of either capitalizing or expensing installation costs and that a consistent policy of capitalizing all installation costs should now be followed by all carriers.

9. The Commission has given further consideration to the statements in its notice of proposed rule making to the effect that if all installation costs are capitalized as a part of the cost of plant in place, reasonable matching of expenses and revenues will result without amortization of installation charge revenues except when they are relatively large and recur in such large amounts infrequently and at irregular intervals. The Commission has also considered Western Union's objections to being required to obtain Commission authority before amortizing any installation charge revenue items beyond the end of the current calendar year. There have been discussions with Western Union (the only telegraph carrier having a considerable volume of installation charge transactions) as to the feasibility of establishing a routine practice of subjecting to amortization all or a large part of its installation charges. The Commission believes that in theory all installation charges should be subjected to amortization. It believes, however, that small amounts may be excepted without material effect upon results. Accordingly, the accounting rules will be revised so as to require a greater degree of amortization than was contemplated in the notice of proposed rule making but amortization will still not be required for the mass of small amounts. Furthermore, the rules as revised will not require express Commission authority for any amortization of installation charge revenues.

10. Our notice of proposed rule making made no mention of what account should be used for any installation charge revenues subjected to amortization over the future. It is believed that account 2399, "Other deferred credits," will serve satisfactorily. Cross references are being added to account 2399 in both Parts 34 and 35 of our rules and to §§ 34.10-12 and 35.10-12, the instruction paragraphs for deferred credits, so that there will be uniformity of application and no misunderstanding in this regard.

It appearing that the proposed rule making proceeding in this matter has indicated the desirability of amendment of

Parts 34 and 35 of the Commission's rules and regulations in principle as proposed, but with some modification in degree of application of the principle;

It is ordered, That under authority contained in sections 4 (1) and 220 (a) of the Communications Act of 1934, as amended, Part 34, Uniform System of Accounts for Radiotelegraph Carriers, and Part 35, Uniform System of Accounts for Wire-telegraph and Ocean-cable Carriers of the Commission's rules and regulations are hereby amended as set forth below.

It is further ordered, That the amendments ordered herein be effective January 1, 1959.

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interpret or apply sec. 220, 48 Stat. 1078; 47 U. S. C. 220.)

Adopted: June 18, 1958.

Released: June 19, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. In § 34.10-12, insert at end of the instruction the words "(See also § 34.31-2 (d).)" This section will then read as follows:

§ 34.10-12 *Deferred credits.* Deferred credits are amounts representing (a) credit items held in suspense pending determination of their actual status and (b) obligations (e. g., unamortized premium on debt) that have been incurred but are applicable to future operations or income. (See also § 34.31-2 (d).)

2. In paragraph (a) of § 34.2399, insert at end of item within the parenthesis "and 34.31-2 (d)". Paragraph (a) will then read as follows:

§ 34.2399 *Other deferred credits.* (a) This account shall include the amount of deferred credits not provided for elsewhere. (See also §§ 34.03-15 and 34.31-2 (d).)

3. In § 34.31-2 *Basis of credits to operating revenue accounts* add a new paragraph (d) as follows:

(d) Credits to the operating-revenue accounts shall be made when the amounts are received or when they become receivable, whichever date is the earlier: *Provided, however,* That amounts exceeding \$100 charged to a customer for each separate installation and like amounts classifiable under paragraph (b) (2) of this section shall be credited initially to account 2399, "Other deferred credits," and distributed to appropriate operating-revenue accounts in equal monthly amounts over the estimated life in place of the related plant.

4. Delete the text of subparagraph (11) of paragraph (a) of § 34.41-5 *Maintenance expenses* and substitute the word "[Reserved]".

5. In § 35.10-12, insert at end of the instruction the words "(See also § 35.31-2 (c).)" This section will then read as follows:

§ 35.10-12 *Deferred credits.* Deferred credits are amounts representing (a) credit items held in suspense pending determination of their actual status and (b) obligations (e. g., unamortized premium on debt) that have been incurred but are applicable to future operations or income. (See also § 35.31-2 (c).)

6. In paragraph (a) of § 35.2399, insert at end of item within the parenthesis the words "and 35.31-2 (c)". Paragraph (a) will then read as follows:

§ 35.2399 *Other deferred credits.* (a) This account shall include the amount of deferred credits not provided for elsewhere. (See also §§ 35.03-15 and 35.31-2 (c).)

7. In § 35.31-2 *Basis of credits to the operating revenue accounts* add a new paragraph (c) as follows:

(c) Credits to the operating-revenue accounts shall be made when the amounts are received or when they become receivable, whichever date is the earlier: *Provided, however,* That amounts exceeding \$100 charged to a customer for each separate installation and like amounts classifiable under paragraph (b) (2) of this section shall be credited initially to account 2399, "Other deferred credits," and distributed to the appropriate operating-revenue accounts in equal monthly amounts over the estimated life in place of the related plant.

8. Delete in its entirety subparagraph (14) of paragraph (a) of § 35.41-7 *Maintenance expenses.*

[P. R. Doc. 58-4804; Filed, June 24, 1958; 8:53 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries PART 104—BRISTOL BAY AREA

PART 111—PRINCE WILLIAM SOUND AREA MISCELLANEOUS AMENDMENTS

Basis and purpose. The following changes and amendments are made to announce the registrations of units of gear in Bristol Bay in compliance with the requirements of § 104.9 (c); to correct an error in description of closed waters in § 104.34 (b); and to provide for adequate regulation of the personal use fishery in Prince William Sound by creation of § 111.92.

1. In compliance with § 104.9 (c), announcement is made that registrations of units of gear by districts in Bristol Bay, as of 6 p. m. June 20, 1958, are as follows:

	Units
Naknek-Kvichak	323
Nushagak	271
Egegik	113
Ugashik	70

2. Section 104.34 is amended in paragraph (b) by deleting "Northwest" and substituting in lieu thereof "Northeast".

3. A new section is created in Part 111 to read as follows:

§ 111.92 *Gear restriction, salmon.* Personal use fishing with gill net, seine or trap is prohibited prior to opening of the commercial season.

Since certain of the seasons affected are either imminent or already underway, notice and public procedure on these amendments are not in the public

interest. They shall, therefore, become effective immediately upon publication in the FEDERAL REGISTER.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

A. W. ANDERSON,
Acting Director.

Bureau of Commercial Fisheries.

JUNE 23, 1958.

(F. R. Doc. 58-4851; Filed, June 23, 1958; 3:13 p. m.)

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

U. S. STANDARDS FOR GRADES OF FROZEN BROCCOLI¹

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the United States Department of Agriculture is considering the revision of the United States Standards for Grades of Frozen Broccoli (7 CFR Part 52) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.). This revision, if made effective, will be the third issued by the Department of grade standards for this product.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed revision should file the same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., not later than January 15, 1959.

The proposed revision is as follows:

PRODUCT DESCRIPTION, STYLES, AND GRADES

- Sec.
52.631 Product description.
52.632 Styles.
52.633 Grades.

FACTORS OF QUALITY

- 52.634 Ascertaining the grade.
52.635 Ascertaining the rating for the factors which are scored.
52.636 Color.
52.637 Uniformity of size.
52.638 Defects.
52.639 Character.

DEFINITIONS AND METHODS OF ANALYSES

- 52.640 Percent, by weight, of head material, loose leaves and loose pieces of leaves in chopped broccoli.

LOT INSPECTION AND CERTIFICATION

- 52.641 Ascertaining the grade of a lot.

SCORE SHEET

- 52.642 Score sheet for frozen broccoli.

¹ Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act. (Or with applicable state laws and regulations.)

AUTHORITY: §§ 52.631 to 52.642 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

PRODUCT DESCRIPTION, STYLES, AND GRADES

§ 52.631 *Product description.* "Frozen broccoli" is the product prepared from the fresh, clean, sound stalks or shoots of the broccoli plant by trimming, washing, blanching, sorting, and properly draining and is frozen in accordance with good commercial practice and maintained at temperatures necessary for preservation of the product.

§ 52.632 *Styles of frozen broccoli—(a) General.* For the purpose of determining percent, by weight, of head material and leaf material in the styles of cut and chopped broccoli:

(1) "Head material" consists of buds or bud clusters whether or not attached to a portion of a spear and includes the fine stem material to which buds or bud clusters are attached to the main stem;

(2) "Leaf material" means a leaf or any portion thereof whether or not attached to a portion of a spear.

(b) *Style I. "Spears" or "Stalks"* means frozen broccoli consisting of the head and adjoining portions of the stem, with or without attached leaves, and such spears or stalks may be cut longitudinally. The length of the unit is not less than 3 inches or not more than 6 inches.

(c) *Style II. "Short spears" or "Florets"* means frozen broccoli consisting of the head and adjoining portions of the stem, with or without attached leaves and such short spears or florets may be cut longitudinally. The length of the unit is less than 3 inches but not less than 1 inch.

(d) *Style III. "Cuts"* means frozen broccoli consisting of spears or stalks which have been cut into portions $\frac{3}{4}$ inch or more but not more than 2 inches in length. This style contains not less than 35 percent, by weight, of head material and not more than 25 percent, by weight, of leaf material.

(e) *Style IV. "Chopped"* means frozen broccoli consisting of spears or stalks which have been cut into portions less than $\frac{3}{4}$ inch in length. This style contains not less than 25 percent, by weight, of head material and not more than 25 percent, by weight, of leaf material.

(f) *Style V. "Pieces"* means frozen broccoli consisting of any cut or chopped portions of spears or stalks and does not

meet the foregoing definition for "Cuts" or "Chopped." This style consists of pieces not in excess of 2 inches in length and may or may not contain head material or leaf material.

§ 52.633 *Grades of frozen broccoli.* (a) "U. S. Grade A" or "U. S. Fancy" is the quality of frozen broccoli spears, short spears, cuts, and chopped that possess similar varietal characteristics; that possess a good color; that is reasonably uniform in size; that is practically free from defects; that possess a good character; that possess a good flavor and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 85 points: *Provided*, That frozen broccoli spears, short spears, cuts, and chopped may be only fairly uniform in size if the total score is not less than 85 points.

(b) "U. S. Grade B" or "U. S. Extra Standard" is the quality of frozen broccoli of any style that possess similar varietal characteristics; that possess a reasonably good color; that is reasonably uniform in size; that is reasonably free from defects; that possess a reasonably good character; that possess a fairly good flavor; and that for those factors which are rated in this subpart, the total score is not less than 70 points: *Provided*, That frozen broccoli may fail to meet the requirements of fairly uniform in size if the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen broccoli of any style that fails to meet the requirements of "U. S. Grade B" or "U. S. Extra Standard."

FACTORS OF QUALITY

§ 52.634 *Ascertaining the grade.* (a) The grade of frozen broccoli may be ascertained by considering, in conjunction with the requirements of the respective grade, the respective ratings for the factors of color, uniformity of size, defects, and character.

(b) The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

Factors:	Points
Color.....	20
Uniformity of Size.....	15
Defects.....	30
Character.....	35
Total score.....	100

(c) The scores for the factors of color, uniformity of size, defects, and character are determined immediately after thawing to the extent that the product is substantially free from ice crystals and can be handled as individual units. The evaluation of the factors of character with respect to tenderness and flavor is determined after thawing and after the product is cooked.

(d) "Good flavor" means that the product has a good, normal, characteristic flavor and odor and is free from objectionable flavors and objectionable odors of any kind.

(e) "Fairly good flavor" means that the product after cooking may be lacking

in good, normal, flavor and odor but is free from objectionable flavors and objectionable odors of any kind.

§ 52.635 *Ascertaining the rating for the factors which are scored.* The essential variations within each factor which is scored are so described that the value may be ascertained for such factors and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "17 to 20 points" means 17, 18, 19, or 20 points).

§ 52.636 *Color—(a) (A) classification.* Frozen broccoli that possesses a good color may be given a score of 17 to 20 points. "Pieces" that score 17 to 20 points shall not be graded above U. S. Grade B or U. S. Extra Standard regardless of the total score for the product (this is a partial limiting rule). "Good color" means that the frozen broccoli possesses a bright, characteristic green color which may include lighter colored areas typical of young and tender broccoli that does not materially affect the appearance of the product.

(b) (B) *classification.* If the frozen broccoli possesses a reasonably good color, a score of 14 to 16 points may be given. Frozen broccoli that falls into this classification shall not be graded above "U. S. Grade B" or "U. S. Extra Standard" regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means that the frozen broccoli possesses a characteristic green color which may be variable but is not off color.

(c) (SStd.) *classification.* Frozen broccoli that fails to meet the requirements of paragraph (b) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.637 *Uniformity of size—(a) General.* "Diameter" of a spear or stalk, whether or not cut longitudinally, means the greatest crosswise dimension measured 1 inch above the lowest portion of the main stem of the spear or stalk at approximate right angles to the length.

(b) (A) *classification.* Frozen broccoli that is reasonably uniform in size may be given a score of 13 to 15 points. "Pieces" that score 13 to 15 points shall not be graded above U. S. Grade B or U. S. Extra Standard regardless of the total score for the product (this is a partial limiting rule). "Reasonably uniform in size" has the following meanings with respect to the following styles:

(i) *Spears.* (i) The length of the longest unit does not exceed the length of the shortest unit by more than 2 inches;

(ii) In the 90 percent, by count, of the units with the most uniform lengths, the length of the longest unit does not exceed the length of the shortest unit by more than 1 inch;

(iii) The diameter of the unit with the greatest diameter does not exceed the diameter of the unit with the smallest diameter by more than 1 inch;

(iv) And in the 90 percent, by count, of the units which have the most uniform diameters, the diameter of the unit with

the greatest diameter does not exceed the diameter of the unit with the smallest diameter by more than $\frac{3}{4}$ inch.

(2) *Short spears.* The weight of the largest unit is not more than 3 times the weight of the smallest unit.

(3) *Cuts.* Not more than 10 percent, by weight, of the units may be $\frac{1}{2}$ inch or less in length and the appearance of the product is not materially affected by variation in size.

(4) *Chopped.* Not more than 5 percent, by weight, of the units are $\frac{3}{4}$ inch or more in length.

(5) *Pieces.* The variation in size of the individual units does not materially affect the appearance of the product.

(c) (B) *classification.* If the frozen broccoli is fairly uniform in size a score of 10 to 12 points may be given. "Fairly uniform in size" has the following meaning with respect to the following styles:

(1) *Spears.* (i) In the 90 percent, by count, of the units with the most uniform lengths, the length of the longest unit does not exceed the length of the shortest unit by more than 2 inches;

(ii) In the 90 percent, by count, of the units with the most uniform diameters, the diameter of the unit with the greatest diameter does not exceed the diameter of the unit with the smallest diameter by more than $\frac{3}{4}$ inch.

(2) *Short spears.* The weight of the largest unit is not more than 4 times the weight of the smallest unit.

(3) *Cuts.* Not more than 20 percent, by weight, of the units may be $\frac{1}{2}$ inch or less in length and that the appearance of the product is not materially affected by variation in size.

(4) *Chopped.* Not more than 10 percent, by weight, of the units may be $\frac{3}{4}$ inch or more in length.

(5) *Pieces.* The variation in size of the individual units does not seriously effect the appearance of the product.

(d) (SStd.) *classification.* Frozen broccoli that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 9 points. Frozen broccoli that falls into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard regardless of the total score for the product (this is a partial limiting rule).

§ 52.638 *Defects—(a) General.* The factor of defects refers to the degree of trimming and to the degree of freedom from grit or silt, harmless extraneous vegetable material, detached fragments, and from units that are damaged or seriously damaged.

(1) "Grit or silt" means sand or any other particle of earthy material.

(2) "Harmless extraneous vegetable material" means vegetable substances other than broccoli, such as weeds and grass and any portions thereof, that are harmless.

(3) "Loose leaves" and "loose pieces of leaves" means leaves or pieces of leaves not attached to a unit.

(4) "Detached fragments" means any detached portions of spears or stalks including bud clusters, shattered material, portions of stems without bud clusters regardless of size or length, and portions of stems with bud clusters which portions are 2 inches or less in the greatest

straight dimension with respect to spears and 1 inch or less in the greatest straight dimension with respect to short spears.

(5) "Well trimmed" means that the appearance of the spear or short spear is not materially affected by the presence of attached leaves or pieces of leaves and not more than slightly affected by ragged or partial removal of leaves, or by poor cutting of the stem of the spear.

(6) "Reasonably well trimmed" means that the appearance of the spear or short spear is not seriously affected by the presence of attached leaves or pieces of leaves and not materially affected by ragged or partial removal of leaves, or by poor cutting of the stem of the spear.

(7) "Poorly trimmed" means that the appearance of the spear or short spear is seriously affected by the presence of attached leaves or pieces of leaves, by ragged or partial removal of leaves, or by poor cutting of the stem of the spear.

(8) "Damaged" means damage by discoloration, mechanical injury, hollow stems, pithy stems, or by other means to the extent that the appearance or eating quality of the unit is materially affected.

(9) "Seriously damaged" means damaged to such an extent that the appearance or eating quality of the unit is seriously affected.

(b) (A) *classification.* Frozen broccoli that is practically free from defects may be given a score of 25 to 30 points. "Pieces" that score 25 to 30 points shall not be graded above U. S. Grade B or U. S. Extra Standard regardless of the total score for the product (this is a partial limiting rule). "Practically free from defects" means that there may be present no grit or silt that affects the appearance or eating quality of the product; not more than 1 piece of harmless extraneous vegetable material for each 30 ounces of net weight; and in addition to the foregoing has the following meanings with respect to the following styles of frozen broccoli:

(1) *Spears; short spears.* (i) The presence of loose leaves, loose pieces of leaves and detached fragments does not materially affect the appearance of the product;

(ii) Not more than 20 percent, by count, of the units may be reasonably well trimmed, including not more than 5 percent, by count, of all the units or one unit, whichever is greater, may be poorly trimmed;

(iii) Not more than 10 percent, by count, of the units may be damaged including not more than 5 percent, by count, of all the units that may be seriously damaged. One unit in a container is permitted to be damaged or seriously damaged; *Provided*, That the total number of such damaged or seriously damaged units in all of the containers comprising the sample is within the percentage permitted for such defects.

(iv) The presence of harmless extraneous vegetable material, loose leaves, loose pieces of leaves, detached fragments, reasonably well trimmed units, poorly trimmed units, and units that are damaged or seriously damaged, does not materially affect the appearance or eating quality of the product.

(2) *Cuts*. (i) Not more than 6 percent, by weight, of the units may be damaged, including not more than 3 percent, by weight, that may be seriously damaged.

(ii) The presence of harmless extraneous vegetable material, damaged units or seriously damaged units does not materially affect the appearance or eating quality of the product.

(3) *Chopped*. (i) Not more than 4 percent, by weight, of the units may be damaged, including not more than 2 percent, by weight, of the units that may be seriously damaged.

(ii) The presence of harmless extraneous vegetable material, damaged units or seriously damaged units does not materially affect the appearance or eating quality of the product.

(4) *Pieces*. (i) The presence of harmless extraneous vegetable material, damaged units or seriously damaged units does not materially affect the appearance or eating quality of the product.

(c) (B) *classification*. Frozen broccoli of any style that is reasonably free from defects may be given a score of 21 to 24 points. Frozen broccoli that falls into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that a trace of grit or silt may be present that does not materially affect the appearance or eating quality of the product; for each 30 ounces of net weight there may be present not more than 2 pieces of harmless extraneous vegetable material; and in addition to the foregoing has the following meanings with respect to the following styles of frozen broccoli:

(1) *Spears; short spears*. (i) The presence of detached fragments, loose leaves and loose pieces of leaves does not seriously affect the appearance of the product;

(ii) Not more than 20 percent, by count, may be poorly trimmed;

(iii) Not more than 20 percent, by count, may be damaged including not more than 10 percent, by count, that may be seriously damaged; One unit in a container is permitted to be damaged or seriously damaged; *Provided*, That the total number of such damaged or seriously damaged units in all of the containers comprising the sample is within the percentage permitted for such defects.

(iv) The presence of harmless extraneous vegetable material, detached fragments, loose leaves and loose pieces of leaves, poorly trimmed units, and units that are damaged or seriously damaged does not seriously affect the appearance or eating quality of the product;

(2) *Cuts*. (i) Not more than 12 percent, by weight, of the units may be damaged, including not more than 6 percent, by weight, of the units that may be seriously damaged;

(ii) The presence of harmless extraneous vegetable material, damaged units or seriously damaged units does not seriously affect the appearance or eating quality of the product.

(3) *Chopped*. (i) Not more than 8 percent, by weight, of the units may be damaged, including not more than 4 percent, by weight, of the units that may be seriously damaged.

(ii) The presence of harmless extraneous vegetable material, damaged units, or seriously damaged units does not seriously affect the appearance or eating quality of the product.

(4) *Pieces*. (i) The presence of harmless extraneous vegetable material, damaged units, or seriously damaged units does not seriously affect the appearance or eating quality of the product.

(d) (SStd.) *classification*. Frozen broccoli that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 20 points. Frozen broccoli that falls into this classification shall not be graded above "Substandard" regardless of the total score for the product (this is a limiting rule).

§ 52.639 *Character*—(a) *General*. The factor of character refers to the degree of development, to the degree of tenderness and freedom from fiber.

(1) "Well developed" means that the branching bud clusters of the unit form a practically compact head, that the individual buds in the bud clusters are all practically closed, and that the immediate stems supporting the individual buds in the bud clusters show no more than slight elongation.

(2) "Reasonably well developed" means that the branching bud clusters of the unit may be spread or spreading; that the individual buds in the bud clusters may have reached a moderate stage of enlargement but practically none of the buds are in the flowered or open stage; and that the immediate stems supporting the individual buds in the bud clusters may be moderately elongated.

(b) (A) *classification*. Frozen broccoli that possess a good character may be given a score of 30 to 35 points. "Pieces" that score 30 to 35 points shall not be graded above U. S. Grade B or U. S. Extra Standard regardless of the total score for the product (this is a partial limiting rule). "Good character" has the following meanings with respect to the following styles:

(1) *Spears; short spears*. The units are tender and not less than 80 percent, by count, of the units are well developed and the remainder are reasonably well developed;

(2) *Cuts*. The units are tender and free from fiber and the buds and bud clusters are at least reasonably well developed.

(3) *Chopped; pieces*. The broccoli is tender and free from fiber and the buds and bud clusters which may be present are at least reasonably well developed.

(c) (B) *classification*. Frozen broccoli that possesses a reasonably good character may be given a score of 25 to 29 points. Frozen broccoli that falls into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard regardless of the total score for the product (this is a limiting rule). "Reasonably good character" has the following meanings with respect to the following styles:

(1) *Spears; short spears*. The units are reasonably tender and not more than 10 percent, by count, of the units may possess tough fiber and not more than 10 percent, by count, may fail to meet the requirements for reasonably well developed;

(2) *Cuts*. Not more than 10 percent, by weight, of the units may possess tough fiber and not more than 5 percent, by weight, of the units may show buds or bud clusters which fail to meet the requirements for reasonably well developed;

(3) *Chopped; pieces*. The broccoli is reasonably tender and practically free from fiber and the presence of flowered buds or bud clusters does not materially affect the appearance or eating quality of the product.

(d) (SStd.) *classification*. Frozen broccoli that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 24 points. Frozen broccoli that falls into this classification shall not be graded above Substandard regardless of the total score for the product (this is a limiting rule).

DEFINITIONS AND METHODS OF ANALYSES

§ 52.640 *Percent, by weight, of head material, loose leaves and loose pieces of leaves in chopped broccoli*. (a) Frozen broccoli shall be tested by the following method to determine the percent, by weight, of head material, loose leaves and loose pieces of leaves.

(1) Equipment needed:

(i) 250 ml beaker.

(ii) Gram scale, or other suitable scale graduated to 0.1 ounce.

(iii) Laboratory tweezers, scalpel or any other instrument suitable for separating the stem material, leaf material, and head material.

(iv) Flat grading tray.

(2) Method:

(i) Mix sample to be tested thoroughly.

(ii) Weigh approximately 100 grams or 3 ounces of sample in a previously tared 250 ml beaker.

(iii) Spread contents of beaker out on a flat grading tray.

(iv) Separate the stem material from the head and leaf material and weigh the stem material and record.

(v) Separate the leaf material from the head material and weigh each separately and record.

(vi) The weight of the head material divided by the sum of the weights of the stem, head, and leaf materials multiplied by 100 is the percent, by weight, of head material.

(vii) The weight of the leaf material divided by the sum of the weights of the stem, head, and leaf materials multiplied by 100 is the percent, by weight, of leaf material.

(viii) The percent, by weight, of leaf material and head material is determined by averaging the weight of the head material and leaf material separately from all the containers comprising the samples; provided, no single container contains less than 15 percent, by weight of head material, or more than 30 percent, by weight, of leaf material.

LOT INSPECTION AND CERTIFICATION

§ 52.641 *Ascertaining the grade of a lot.* The grade of a lot of frozen broccoli covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 to 52.87; 22 F. R. 3535).

SCORE SHEET

§ 52.642 *Score sheet for frozen broccoli.*

Size and kind of container.....		
Container mark or identification.....		
Label.....		
Net weight (ounces).....		
Style.....		
Count (of stalks).....		
Head material (percent, by weight).....		
Leaf material (percent, by weight).....		
Factors	Score points	
Color.....	20	(A) 17-20 (B) 14-16 (S8td.) 10-13
Uniformity of size.....	15	(A) 13-15 (B) 10-12 (S8td.) 7-9
Defects.....	30	(A) 25-30 (B) 21-24 (S8td.) 10-26
Character.....	35	(A) 30-35 (B) 25-29 (S8td.) 10-24
Total score.....	100	
Flavor and odor.....		
Grade.....		

1 Indicates limiting rule.

2 Indicates partial limiting rule.

Dated: June 20, 1958.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Service.

[F. R. Doc. 58-4784; Filed, June 24, 1958;
8:47 a. m.]

[7 CFR Part 1000]

[Docket No. AO-266-A1]

HANDLING OF MILK IN CHATTANOOGA,
TENN., MARKETING AREADECISION WITH RESPECT TO PROPOSED
AMENDMENTS TO TENTATIVE MARKETING
AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Chattanooga, Tennessee, on December 3 and 4, 1957, pursuant to notice thereof issued on October 24, 1957 (22 F. R. 8539).

A recommended decision on certain issues on the record was issued by the Deputy Administrator, Agricultural Marketing Service, on January 31, 1958 (23 F. R. 755), and a final decision by the Assistant Secretary on February 20, 1958 (23 F. R. 1173). Among the issues listed in the recommended decision and final decision were two issues which were deferred for a later decision on the record.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on May 21, 1958 (23 F. R. 3596), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision on these two issues, which recommended decision contained notice of the opportunity to file written exceptions thereto. These issues are as follows:

7. Classification of sour cream.

8. Classification of transfers of packaged fluid milk products from a plant subject to another order and transfers between pool plants.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

7. *Classification of sour cream.* Disposition of sour cream should be classified as a Class I milk disposition.

Since the effective date of the order, disposition of sour cream has been accounted for as Class II milk. Sweet cream and mixtures of sweet cream with milk or skim milk have been accounted for as Class I milk.

The health ordinance in Chattanooga requires that sour cream be produced from Grade A milk. One Chattanooga handler manufactures sour cream from producer milk. Some handlers who claimed in their testimony that sour cream made from non-Grade A milk is entering the marketing area could not supply any specific instance where this was happening.

It is concluded that the proper classification for disposition of sour cream in this market is Class I milk. In order to obviate any uncertainty as to the application of the order to this matter the product sour cream should be specified in the "fluid milk product" definition.

8. *Classification of packaged fluid milk products from other order plants and transfers between pool plants.* The milk accounting procedure under the order should be modified to accommodate procurement of certain packaged fluid milk products by a handler from a plant regulated under the Knoxville order. The sales of such items by the Chattanooga plant should not be counted in the supply-demand computation.

A handler proposed that packaged fluid milk products obtained by a Chattanooga order plant from a plant regulated under another order should be allocated to Class I disposition of the same items by the Chattanooga plant before assignment of producer milk to Class I disposition. This would relieve the handler from paying Chattanooga producers for these particular Class I sales. It was proposed that this type of accounting for receipts of packaged milk would apply only when such milk was classified as Class I milk under the other order, was disposed of as Class I milk from the Chattanooga plant in the same form as received, and the same type of product was not processed and packaged in the Chattanooga plant. It was suggested that the purpose of the handler could also be accomplished by excluding such packaged receipts from the definition of "other source milk".

The proponent handler now has general Class I disposition in the Chattanooga market, all of which is processed and packaged in his pool plant under the Knoxville order. The handler does not have a Chattanooga pool plant, but contemplates establishing a pool plant under the order which would receive milk from producers to cover needs for sales of whole milk. In the case of cream, skim milk, flavored milk, flavored milk drinks, and buttermilk, such products would continue to be processed and packaged in his Knoxville plant and transferred to the Chattanooga plant for distribution therefrom. The described operation thus contemplates a partial continuance of the present dependence of the handler on Knoxville producers for a supply of milk, including reserve, specifically to cover the sales of the named fluid milk products in Chattanooga.

The present system of accounting for milk under the order gives producer milk prior claim to Class I sales. This is accomplished by assigning milk from nonproducer sources (other source milk) to the Class II utilization in the handler's plant to the extent possible. Any other source milk in excess of Class II utilization is assigned to Class I disposition. Other source milk which originates from a plant under another order and which is classified there as Class I milk is assigned separately to utilization in the Chattanooga pool plant after the assignment of any other source milk from plants not under any Federal order regulation or other source milk from a Federal order plant where it has not been classified as Class I. This accounting procedure accommodates a handler who wishes to obtain supplemental milk from another Federal order market when his own producer supply is not sufficient to cover Class I needs. The proposal of the handler contemplates a different situation, in that the source of certain products would depend on the type of plant operation rather than availability of producer milk.

Under the terms of the Knoxville order, all disposition by a Knoxville plant of packaged fluid milk products is Class I milk for which the plant is obligated to pay Knoxville producers. If the disposition is, in fact, a transfer to a Chattanooga plant which makes final disposition thereof to consumers, then the same items become Class I disposition under the Chattanooga order also.

The allocation provisions of the Chattanooga order should be modified so that Class I disposition by a Chattanooga handler of packaged items, in the categories named by the proponent handler, which were received from a Knoxville pool plant, will be set aside prior to the other steps in the allocation procedure. Because of the need to safeguard Chattanooga producers against assignment of their milk to any Class II use of route returns, breakage, etc., which might result from the handling of these items, the credit to the handler should be based on the lesser of the quantity of receipts or sales in the case of each packaged item.

This particular provision for allocation of receipts of packaged items would apply to cream (sweet or sour), skim

milk, flavored milk, flavored milk drinks, and buttermilk, received from a Knoxville pool plant and disposed of from the Chattanooga plant in the same packages; and would apply only for each of such items in months when the handler does not process and package the same product in his Chattanooga pool plant. If a product is processed and packaged in the Chattanooga pool plant, receipts of the same product in whatever form from nonpool plants should be subject to the usual allocation procedure which would assure the prior claim of Chattanooga producers to Class I disposition in that form of product. This is reasonable inasmuch as in these circumstances Chattanooga producers would normally be the source of supply for a substantial part of such disposition and also for reserve requirements associated therewith.

The packaged milk products which might be transferred from the Knoxville plant are part of the supply-demand computation under the Knoxville order. Such sales are not now part of the Chattanooga order supply-demand computation and should continue to be excluded.

Because of the changes in the allocation language, conforming changes should be made in the language with respect to administrative expense so that it will continue to apply to that other source milk from unregulated sources which is allocated to Class I disposition of pool plants.

No proposals were made at the hearing to change the classification of milk transferred between pool plants.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed market-

ing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the Chattanooga, Tennessee, marketing area", and "Order amending the order regulating the handling of milk in the Chattanooga, Tennessee, marketing area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered. That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of May 1958 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Chattanooga, Tennessee, marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D. C., this 19th day of June 1958.

DON PAARLBERG,
Assistant Secretary.

Order Amending the order regulating handling of milk in the Chattanooga, Tennessee, Marketing Area

§ 1000.0 Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and deter-

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

minations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) **Findings upon the basis of the hearing record.** Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chattanooga, Tennessee, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Chattanooga, Tennessee, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 1000.12, "Fluid milk product", and insert instead the following:

§ 1000.12 Fluid milk product. "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk and skim milk drinks, yogurt, cream (sweet or sour) or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream and ice milk mix and aerated cream).

2. Delete § 1000.45 and substitute therefor a new § 1000.45 as follows:

§ 1000.45 Allocation of skim milk and butterfat classified. (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the

producer milk of such handler for such month:

(1) Subtract from the pounds of skim milk in Class I milk disposed of as cream (sweet or sour), skim milk, flavored milk, flavored milk and skim milk drinks, and buttermilk, all in consumer-packaged form on routes, the pounds of such skim milk received during the month in the same product and same packages from a plant fully regulated pursuant to Order No. 88 (Part 988 of this chapter) regulating the handling of milk in the Knoxville marketing area: *Provided*, That this subparagraph shall not apply to any item received if the same product is processed and packaged in the pool plant.

(2) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 1000.41 (b).

(3) Subtract from the pounds of skim milk remaining in Class II milk the skim milk received as other source milk not in the form of fluid milk products: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk.

(4) Subtract from the pounds of skim milk remaining in Class II milk the skim milk in other source milk received in the form of fluid milk products and not subject to the Class I pricing provisions of another order issued pursuant to the act: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk.

(5) Subtract from the pounds of skim milk remaining in Class II milk the skim milk in other source milk which was not subtracted pursuant to subparagraph (1) of this paragraph and which is subject to the Class I pricing provisions of another order issued pursuant to the act: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk.

(6) Subtract from the pounds of skim milk remaining in Class II milk the skim milk contained in inventories of fluid milk products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk the balance shall be subtracted from the pounds of skim milk remaining in Class I milk.

(7) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 1000.43 (a).

(8) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (2) of this paragraph.

(9) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the

pounds of skim milk remaining in the various classes in series beginning with Class II milk. Any amount so subtracted shall be known as "overage";

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk; and

(c) Add the pounds of skim milk and the pounds of butterfat in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in the producer milk allocated to each class.

3. Delete § 1000.51 (a) (3) and substitute therefor the following:

(3) Calculate a utilization percentage for each month by dividing the net hundredweight of Class I milk (excluding that Class I milk subtracted pursuant to § 1000.45 (a) (1) and (b)), disposed of from all pool plants for the first and second preceding months into the total hundredweight of producer milk for the same months, multiplying by 100, and rounding the resultant figure to the nearest whole number;

4. Delete § 1000.70 and substitute therefor a new § 1000.70 as follows:

§ 1000.70 *Computation of the value of producer milk for each handler.* For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 1000.45 by the applicable class price, total the resulting amounts, and add any amount necessary to reflect adjustments on location differential allowance required pursuant to the proviso of § 1000.53;

(b) Add the amounts computed in subparagraphs (1), (2) and (3) of this paragraph;

(1) Multiply the rate of compensatory payment determined pursuant to § 1000.54 by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1000.45 (a) (3) and (b);

(2) Multiply the rate of compensatory payment determined pursuant to § 1000.54 at the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1000.45 (a) (4) and (b);

(3) Multiply the rate of compensatory payment determined pursuant to § 1000.54 at the nearest plant(s) from which an equivalent amount of other source milk was received by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1000.45 (a) (6) and (b), which is in excess of the sum of: (i) The quantity for which a payment must be computed pursuant to paragraph (d) of this section, and (ii) the quantity subtracted from Class II milk pursuant to § 1000.45 (a) (5) and (b) in the preceding month;

(c) Add the amounts computed by multiplying the pounds of overage de-

ducted from each class pursuant to § 1000.45 (a) (9) and (b) by the applicable class price; and

(d) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1000.45 (a) (7) and (b) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1000.45 (a) (6) and (b) for the current month, whichever is less, respectively.

5. In the proviso of § 1000.53, delete the phrase "§ 1000.45 (a) (1) through (4)" and substitute therefor "§ 1000.45 (a) (1) through (6)".

6. Delete § 1000.86 and substitute the following:

§ 1000.86 *Expenses of administration.* On or before the 15th day after the end of each month, each handler shall pay to the market administrator for each of his pool plants, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, (b) other source milk allocated to Class I milk pursuant to § 1000.45 (a) (3) and (4) and (b), or (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant as determined pursuant to § 1000.62.

[F. R. Doc. 58-4785; Filed, June 24, 1958; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 1, 64]

[Docket No. 12495; FCC 58-600]

DOMESTIC TELEGRAPH SPEED OF SERVICE STUDIES

NOTICE OF PROPOSED RULE MAKING

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. A proposed amendment of § 1.486 and subpart B of Part 64 of the Commission's rules and regulations is annexed hereto which contains revisions in rules and regulations governing domestic telegraph speed of service studies that appear desirable because of changes in the Western Union Telegraph Company's operating procedures and in its maintenance of records. It also appears desirable to increase the number of cities at which speed of service studies are conducted.

3. The proposed amended rules, which will replace the present text of §§ 64.201 through 64.283, are issued under the authority of the Communications Act of 1934, as amended, and sections 4 (i), 201 and 218 thereof in particular.

4. Any interested party who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the manner set forth herein, may file with the Commission, on or be-

fore August 1, 1958, a statement or brief setting forth his comments. At the same time persons favoring the amendment as proposed may file statements in support thereof on or before the same date. Comments or briefs in reply to the original comments or briefs may be filed within 15 days of the last day for filing said original comments or briefs. No additional comments may be filed unless specifically requested by the Commission or authorized by it. Before taking action in the matter, the Commission will consider all such comments that are presented; and, if any comments are submitted which appear to warrant the holding of oral argument, notice of the time and place of such oral argument will be given.

5. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: June 18, 1958.

Released: June 19, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Amend § 1.486 of Part 1 (Rules relating to Practice and Procedure) to read as follows:

§ 1.486 *Reports regarding domestic telegraph speed of service.* The Western Union Telegraph Company shall furnish monthly reports under Subpart B of Part 64 of this chapter in regard to origin to destination speed of service on F. C. C. Form 338-B¹ (June 1958), and additional speed of service reports prepared by the telegraph company of originating and relay messages, together with copies of instructions issued by the company to its field offices in accordance with Part 64 of this chapter.

2. Amend Subpart B of Part 64 of the rules by deleting the present text of §§ 64.201 through 64.283 and inserting the following:

SUBPART B—DOMESTIC TELEGRAPH SPEED
OF SERVICE STUDIES
DEFINITIONS

§ 64.201 *Origin to destination speed of service.* The time interval between the time of filing, adjusted for time zone differences, and the time of delivery by telephone, by tieline or by messenger.

§ 64.202 *Time filed.* Except in the case of multiple address messages, the time a message is first accepted at an office for transmission. In the case of messages filed or corrected over the telephone, the time the transaction with the sender is completed shall be the time filed. In the case of messages filed over a tieline, the time the message is acknowledged shall be the time filed. In the case of messages received in an office by messenger, the time the messenger returns to the office from the pickup run shall be the time filed. In the case of messages filed at the counter, the time the transaction with the sender is com-

pleted shall be the time filed. In the case of multiple address messages where individual copies of the message are not filed, the time filed shall be no later than the time duplicating and addressing, prior to transmission, is completed.

§ 64.203 *Time delivered.* The time delivery of a telegram is completed to the addressee (or to a person authorized to receive the telegram for the addressee), except that the time of delivery by telefax tieline shall be as described in paragraphs (a) to (f) of this section.

(a) For speed of service purposes the first attempt to deliver a telegram shall be considered to be the time of delivery.

(b) When delivery is made by telephone, the time delivered is the time reading of a telegram is completed, or the time the first attempt to deliver is made.

(c) When delivery is made by manual teleprinter tieline or by tieline switching equipment, the time delivered is the time transmission of a telegram is completed, or the time of the first attempt to deliver.

(d) When delivery is made by telefax tieline, the time delivered or time of first attempt is two minutes later than the time a facsimile transmitter is connected to the customer's line for transmission of the message.

(e) When delivery is made by tieline directly connected to a line transmitter at a reperforator office, the time delivered is the time the reperforated tape for a message has completely passed through the line transmitter.

(f) When delivery is made by messenger, the time delivered, or the time of the first attempt to deliver, for each message on the route shall be the time routed out plus one-half the interval from the time routed out to the time returned.

§ 64.204 *First attempt.* In the case of telephone delivery, the time the addressee's telephone is reported to be busy or not answered, or reported out of order, or the addressee or someone authorized to accept the message is not available to receive the message. In the case of tieline delivery, the time of first attempt is the time transmission is attempted but could not be made because the addressee did not answer or, having answered, requested later transmission. Two minutes later than such time is the time of first attempt for facsimile tieline messages. In the case of messenger delivery, business messages returned to the office undelivered for any reason when first routed out are "first attempts." The time of the first attempt to deliver shall be the time routed out plus one-half of the interval from the time routed out to the time returned. In all such cases there shall be noted on the message the "first attempt" time and the reason for non-delivery. If unsuccessful attempts to deliver by one method result in transfer to another method for delivery, the messages shall not be tallied in the second method, but shall be tallied as a first attempt in the original method in those cases when it is practicable to do so. Messages delayed in delivery due to special instructions of the sender or

addressee shall be excluded from tally as provided in § 64.224.

§ 64.205 *Tieline.* A direct circuit connecting a telegraph company's office with a customer's office by teleprinter or telefax for the purpose of accepting and delivering telegrams.

§ 64.210 *Identifying wire numbers.* A serial number assigned, usually beginning each day with the number 1, to messages sent over each channel each day at office of origin. If the identifying wire number is omitted in manual retransmission, the wire number assigned for retransmission shall be used in lieu thereof.

§ 64.212 *Messenger route.* A continuous trip of a messenger for the physical delivery or pickup of telegrams entered on a Route Call Record.

§ 64.213 *Business route.* Any messenger route whose due-out time is controlled by a business message.

§ 64.214 *Time routed out.* The time a messenger is dispatched on route.

§ 64.215 *Time returned.* The time a messenger returns to the office after completing a route.

GENERAL PROVISIONS

§ 64.221 *Instructions for the conduct of domestic telegraph origin to destination speed of service studies and the submission of reports thereof.* (a) The Western Union Telegraph Company shall conduct monthly Origin to Destination speed of service studies in accordance with the provisions of §§ 64.201 to 64.295 in the following seventy-five cities: Akron, Ohio; Albany, N. Y.; Atlanta, Ga.; Baltimore, Md.; Birmingham, Ala.; Boston, Mass.; Bridgeport, Conn.; Buffalo, N. Y.; Charlotte, N. C.; Chattanooga, Tenn.; Chicago, Ill.; Cincinnati, Ohio; Cleveland, Ohio; Columbus, Ohio; Dallas, Tex.; Dayton, Ohio; Denver, Colo.; Des Moines, Iowa; Detroit, Mich.; Elizabeth, N. J.; El Paso, Tex.; Ft. Wayne, Ind.; Ft. Worth, Tex.; Grand Rapids, Mich.; Hartford, Conn.; Houston, Tex.; Indianapolis, Ind.; Jacksonville, Fla.; Kansas City, Mo.; Knoxville, Tenn.; Long Beach, Calif.; Los Angeles, Calif.; Louisville, Ky.; Memphis, Tenn.; Miami, Fla.; Milwaukee, Wis.; Minneapolis, Minn.; Nashville, Tenn.; Newark, N. J.; New Haven, Conn.; New Orleans, La.; New York, N. Y.; Norfolk, Va.; Oakland, Calif.; Oklahoma City, Okla.; Omaha, Nebr.; Passaic, N. J.; Peoria, Ill.; Philadelphia, Pa.; Phoenix, Ariz.; Pittsburgh, Pa.; Portland, Oreg.; Providence, R. I.; Richmond, Va.; Rochester, N. Y.; Rockford, Ill.; St. Louis, Mo.; St. Paul, Minn.; Sacramento, Calif.; Salt Lake City, Utah; San Antonio, Tex.; San Diego, Calif.; San Francisco, Calif.; San Jose, Calif.; Seattle, Wash.; Spokane, Wash.; Springfield, Mass.; Syracuse, N. Y.; Tampa, Fla.; Toledo, Ohio; Tulsa, Okla.; Washington, D. C.; Wichita, Kans.; Wilmington, Del.; Worcester, Mass.

(b) Reports thereof in quadruplicate shall be filed with the Commission not

¹ Filed as part of original document.

² Reperforator offices.

later than the twenty-fifth day of each succeeding month in accordance with § 1.486 of this chapter.

§ 64.223 *Types of messages to be tallied.* Of the messages selected as hereinafter provided, the following shall be tallied by time intervals on speed of service tally sheets: Domestic Full Rate including Government and CAK, Domestic Full Rate Money Order, and CND.

§ 64.224 *Exclusion of messages from tally.* Messages, other than those specified in § 64.223, shall not be tallied. These messages include among others: Service, Wire, Press, International (INTL), messages originating in Canada, Mexico, and other "domestic" points outside the continental United States, Day Letter, Night Letter, Deadhead, messages sent over Morse circuits and commission agency circuits for delivery, confirmation copies of messages previously delivered, and messages delayed in delivery due to special instructions of the sender or addressee.

§ 64.225 *Hours to be included.* Speed of service studies shall be made on messages delivered between the hours of 9:00 a. m. and 6:00 p. m., local time, Monday through Friday except as hereinafter provided.

§ 64.226 *Tallies; when made.* Speed of service tallies shall be made after 7:00 p. m. of the day of transmission but not later than the day following transmission, except as follows:

(a) Any tally thus scheduled to be made on a holiday or a Saturday may be postponed until the following business day.

(b) Any tally of messages delivered by teline direct from line transmitters which must be observed at the time of transmission to the customer.

§ 64.227 *Suspension of tallying.* (a) Speed of service tallies shall not be taken with respect to messages handled on the following holidays: New Year's, Washington's Birthday, Memorial Day (May 30), Independence Day, Labor Day, Thanksgiving and Christmas; and on the last business day preceding each of these holidays.

(b) In the event of a serious and unusual communication emergency such as that caused by flood, earthquake, strike by respondent's employees, or fire, tallying may be suspended.

§ 64.228 *Company instructions to offices making studies.* Two copies of all general instructions (and of any amendments thereto) issued to field offices for the purpose of complying with § 1.486 of this chapter and §§ 64.201 to 64.295 shall be filed with the Commission upon issuance.

§ 64.229 *Summary reports.* The results of tallies of speed of service shall be summarized monthly on F. C. C. Form 338-B, Monthly Summary of Origin to Destination Speed of Service, as revised. A statement of any dates during the month on which speed of service tallies were suspended at any city (pursuant to § 64.227), together with the reasons, and explanations for any abnormal serv-

ice, shall be placed on the back of the form.

ORIGIN TO DESTINATION SPEED OF SERVICE; GENERAL PROCEDURE

§ 64.241 *Volume of messages to be tallied.* At each city studied there shall be sampled for each method of delivery (telephone, teline, and messenger) for each of the days of the period prescribed in § 64.225 one-half of one percent of the 24-hour daily average load of messages delivered by that method, but not less than a minimum of 15 messages per day per delivery method. For a given city if one-half of one percent of the daily average load of messages during the period prescribed in § 64.225 for all methods of delivery combined is less than 45 messages per day, then the minimum number of messages to be sampled per day shall be 15 messages delivered by telephone, 15 messages delivered by teline, and 15 messages delivered by messenger.

§ 64.242 *Computation of daily load for each delivery method.* The 24-hour daily average delivered message load shall be determined quarterly for each method of delivery (telephone, teline, and messenger) on the basis of messages delivered during March, June, September and December on all days, Monday through Friday, required to be studied. All company operated offices in each city delivering messages shall be included.

§ 64.243 *Selection of offices for tallying.* (a) Sampling for origin to destination speed of service in each method shall be limited to those offices in each city which deliver an average of 50 or more messages daily by telephone or by teline, or deliver by messenger an average of 50 or more messages daily on business routes: *Provided, however,* That if none of the offices in a city deliver 50 or more messages daily in a particular method of delivery, then each such office shall be considered as delivering an average of 50 messages per day in that method and as qualifying under this section for tallying.

(b) The office and delivery methods to be sampled each day shall be determined as follows:

(1) A set of cards shall be prepared which includes one or more cards for each delivery method in each office in the city, except for the exclusions covered by paragraph (a) of this section. For each method in each office there shall be one card for each 100 messages of delivered load and one card for any excess of 50 or more. Where the average delivered load is between 50 and 100 messages per day, one card shall be prepared. The cards for the teline method, in addition to identifying the office, shall also identify whether the delivery is by manual teleprinter telines, teline switching, telines directly connected to line transmitters, or telefax, and these cards when drawn shall be sampled as described in this section and § 64.271.

(2) Where the volume of traffic for a given delivery method in a city calls for preparation of 3 cards or less, the preparation of such cards will not be required. In such cases if more than one delivery office is involved, the number of

tallies at each such delivery office shall be in the same ratio as its load bears to the total delivery load.

(3) The cards shall be separated into separate decks, one for each method of delivery. The number of cards to be drawn each day for a method of delivery shall be determined by dividing the required daily number of tallies by 5 and rounding off to the nearest whole number.

(4) The deck of cards for a delivery method shall be thoroughly shuffled face down followed by a cut of the deck. The required number of cards for the delivery method shall be drawn from the top of the deck. The shuffling and drawing shall be done after 7:00 p. m. on the day of transmission.

(5) For each card drawn from the deck for a method of delivery, 5 messages shall be tallied. In the case of the deck of teline cards, for each card drawn 5 messages shall be tallied for the office and for the specific teline method listed on the card (manual teleprinter telines, teline switching, telines directly connected to line transmitters, or telefax teline). If the required daily sample for a method of delivery (telephone, all teline methods combined, or messenger) is one more than an even multiple of five, 6 instead of 5 messages shall be tallied at the office designated for the first card drawn. If the required sample is two more than a multiple of five, 6 instead of 5 messages shall be drawn for each of the first two cards drawn. If the required sample is 1 or 2 less than an even multiple of five, 4 messages instead of five shall be tallied for the first or each of the first two cards drawn.

(6) At reperforator offices having telines directly connected to line transmitters, cards when drawn shall apply to the next observation period between 9:00 a. m. and 6:00 p. m., local time, owing to the necessity for observing during transmission.

§ 64.244 *Selection of messages for tallying.* (a) The selection of individual messages to be tallied from the delivered message file of any method at any office shall be determined from the identifying wire number as follows:

(1) A set of ten cards shall be prepared, each card bearing one of the digits 0 to 9.

(2) Then ten cards shall be thoroughly shuffled face down followed by a cut of the deck. The digit appearing on the top card after completion of the cut shall determine selection of the messages to be tallied. Messages in the files delivered between 9:00 a. m. and 6:00 p. m., local time, on which the identifying wire number ends in the digit selected shall be withdrawn for tallying until the quota for the day has been obtained.

(b) Offices using more than 2 compartments for the separate filing of messages delivered by telephone, by telefax or by manual teleprinter shall select compartments or groups of messages from the files for each method in the following manner:

(1) Each compartment designation of the file cabinets, containing messages delivered, shall be entered on a card. This covers filing alphabetically by name—to

or by customer call letters, in number sequence, in delivered time order or by concentrator units. Where large groups of messages have in the past been filed without subdivision, subdivisions of such groups shall be made. Each subdivision shall be entered on a card so that there will be a representative number of cards for the number of messages in such groups.

(2) The entire set of cards shall be thoroughly shuffled face down and the deck cut, the compartment designation appearing on the top card after completion of the cut shall determine the groups of messages from which tallies will be made. If additional groups are required in order to tally the required quota of messages, one or more additional cards shall be drawn and used in the order of their appearance in the pack from the top down.

(3) Individual messages of the types named in § 64.223 shall be withdrawn from the selected group or groups of compartments for tallying by selecting those whose identifying wire number ends in the digit drawn.

(c) Offices using not more than 2 compartments for the separate filing of messages delivered by telephone, by telefax or by manual teleprinter shall select individual messages from the files for each method in the following manner:

(1) Where delivered messages are filed alphabetically, a card for each letter of the alphabet shall be prepared. The set of cards shall be shuffled face down and the deck cut. The top card shall be drawn after completion of the cut. The file shall be searched beginning with the letter of the alphabet drawn for individual messages of the types named in § 64.223 whose identifying wire number ends in the digit drawn. If, after complete search of the file for messages delivered between 9:00 a. m. and 6:00 p. m., local time, the quota for tallying is not obtained, the succeeding card or cards shall be used as described in paragraph (b) (2) of this section.

(2) Where delivered messages are filed in sent number sequence or in delivered time order or route records are filed in route out or return time order, a set of 9 cards shall be prepared, each card bearing one of the hours 9 a. m. to 10 a. m. through 5 p. m. to 6 p. m. The set of cards shall be shuffled face down and the deck cut. The top card shall be drawn after completion of the cut. The file shall be searched beginning with the hour drawn for individual messages whose identifying wire number ends in the digit drawn. If, after complete search of the file for messages delivered between 9:00 a. m. and 6:00 p. m., local time, the quota for tallying is not obtained, the succeeding hours shall be used.

(d) Offices delivering messages by messenger shall select individual messages of the types named in § 64.223 from business route records in accordance with paragraphs (a) and (c) (2) of this section.

(e) Offices filing delivered messages in any other manner than those indicated herein shall arrange their files to meet these requirements of sampling.

ORIGIN TO DESTINATION SPEED OF SERVICE; MESSAGES DELIVERED BY TELEPHONE

§ 64.261 *Selection and tally.* (a) Offices and messages selected for tallying each day in any city shall be determined in accordance with §§ 64.241 to 64.244.

(b) Each message of the type described in § 64.223 which was delivered by telephone between the hours of 9:00 a. m. and 6:00 p. m., local time, shall be tallied, unless previously dispatched for physical delivery by messenger or by mail.

(c) The interval of time to be tallied for each message selected shall be from the time filed to the time delivered or to the time of the first attempt (see §§ 64.203 and 64.204).

ORIGIN TO DESTINATION SPEED OF SERVICE; MESSAGES DELIVERED BY TIE LINE

§ 64.271 *Selection and tally.* (a) For messages delivered by telefax and manual teleprinter tie lines, offices and messages selected for tallying each day in any city shall be determined in accordance with §§ 64.241 to 64.244.

(b) For messages delivered by tie line switching equipment, the following method for selection of messages to be tallied shall be used:

(1) Each roll of monitor tape, on which are recorded copies of messages delivered by tie line switching equipment shall be designated with a separate number.

(2) A number card shall be prepared for each numbered roll of monitor tape. The entire set of cards, representing an equal number of monitor rolls, shall be thoroughly shuffled face down daily and the deck cut. The required number of cards shall be withdrawn from the top of the deck after completion of the cut to determine the monitor roll or rolls from which tallies will be made. These cards shall be withdrawn and used in the order of their appearance in the pack from the top down.

(3) A digit shall be selected, as outlined in § 64.244 (a).

(4) Each message of the types named in § 64.223 in the selected monitor tape rolls transmitted between 9:00 a. m. and 6:00 p. m., local time, on which the identifying wire number ends in the digit selected shall be tallied, until the quota is obtained.

(c) For messages delivered by tie line direct from line transmitters, the following tally routine shall be used:

(1) The name or designation of each outgoing line transmitter directly connected to a tie line shall be entered on a list of consecutively numbered cards. The designation of these channels on the list cards shall be arranged so as to facilitate examination of the line transmitters.

(2) Each line transmitter at reprocessor relay offices used in the delivery of telegrams directly to tie line customers shall be observed. Where a single tie line is associated with one line transmitter only, the first message of the types named in § 64.223 which it is possible to tally by time interval shall be tallied. Where several tie lines are associated with one line transmitter, a total number of messages equal to the number of tie

lines in the group shall be tallied. Thereafter, the tally clerk shall move to the next tie line or group of tie lines, observations continuing until the required number of messages has been tallied. If, after observing any tie line or group of tie lines for a period of two minutes without tally the clerk shall move to the next line transmitter concerned. If, after all listed tie lines have been examined, an insufficient number of messages have been tallied, observations shall be continued starting with the first tie line observed that day. The last tie line examined on one observation shall be the first tie line examined on the next observation drawn.

(3) If it is not necessary to observe messages continuously between 9:00 a. m. and 6:00 p. m., local time, to secure the required number of tallies, the hours during which tallies are made shall be staggered from day-to-day so that each hour of the interval from 9:00 a. m. to 6:00 p. m., will be sampled as often as every other hour of that interval.

(d) The interval of time to be tallied for each message selected shall be from the time filed to the time delivered or to the time of the first attempt (see §§ 64.203 and 64.204).

ORIGIN TO DESTINATION SPEED OF SERVICE; MESSAGES DELIVERED BY MESSENGER

§ 64.281 *Route record data.* At all offices in the cities enumerated in § 64.221 where tallies are required to be made, the following shall be entered on route records: (a) The identifying wire number of each business message; (b) the time filed, including the time zone, for each domestic full-rate business message except for confirmation copies of business messages previously delivered; (c) the time a messenger is dispatched on each route carrying business messages; and (d) the time of return from the route.

§ 64.282 *Selection and tally.* (a) Offices and messages selected for tallying each day in any city shall be determined in accordance with §§ 64.241 to 64.244.

(b) Each business message of the type described in § 64.223 which was delivered by messenger between the hours of 9:00 a. m. and 6:00 p. m., local time, shall be tallied, except that messages delivered by telephone and subsequently dispatched for physical delivery by messenger need not be tallied.

(c) The interval of time to be tallied for each message selected shall be from the time filed to the time delivered or to the time of the first attempt (see §§ 64.203 and 64.204).

ORIGIN TO DESTINATION SPEED OF SERVICE; SUMMARY

§ 64.291 *Origin to destination speed of service reports.* Reports of Origin to Destination speed of service sampling at each city designated in § 64.221 shall be summarized for all cities studied showing separately for each delivery method, telephone, tie line and messenger, the number of messages tallied, average speed of service in minutes, the percent delivered in the stated number of minutes, a weighted average summary for the 75 cities and the weighting factors for

each city. The weighting factor for each method of delivery for each city shall be that proportion of the total delivered load in that method and city to the total delivered load in the same method for the 75 cities.

§ 64.295 *Additional speed of service reports required.* (a) The Western Union Telegraph Company shall file with the Commission, not later than the 25th day of each succeeding month, reports in quadruplicate of the following speed of service studies as made for its supervisory purposes:

(1) *Originating messages.* A measurement at each of the 75 cities of the average interval from time filed to time sent into the reperforator or trunk system and the percent within 25 minutes.

(2) *Relay messages.* A measurement at each of the reperforator offices of the interval from (i) the digit time to the time the message passes through the line transmitter at the first reperforator office, and (ii) the digit time to the time the message passes through the line transmitter at the second reperforator office. Each of these two reports shall show the average speed of service in minutes and the percent completed within 10 minutes at the first reperforator office and the percent completed within 15 minutes at the second reperforator office.

(b) Two copies of all general instructions (and of any amendments thereto) issued to the field offices for the preparation of the studies required by this section shall be filed with the Commission upon issuance.

[F. R. Doc. 58-4805; Filed, June 24, 1958; 8:53 a. m.]

[47 CFR Part 66]

[Docket No. 12496; FCC 58-601]

APPLICATIONS RELATING TO CONSOLIDATION, ACQUISITION, OR CONTROL OF TELEPHONE COMPANIES

NOTICE OF PROPOSED RULE-MAKING

1. Notice is hereby given of the proposed rule making in the above matter.

2. Section 221 (a) of the act and Part 66 of the Commission's rules provide that a public hearing shall be held in all cases with respect to each application filed thereunder where a request for such hearing is made by a telephone company, an association of telephone companies, a State Commission or local governmental authority. Additionally, Part 66 provides that a public hearing shall be held in such other cases as the Commission may determine.

3. The purpose of this proceeding is to amend Part 66:

(a) To specify a longer period of time, following the posting of notice by the applicant, as required by § 66.13 (a), during which time interested parties may submit comments, protests, or requests that public hearings be held with respect to such applications.

(b) To require that requests for public hearing be filed with the Commission within forty (40) days from the date

upon which applicant first posts public notice concerning the filing of the application, as required by § 66.13 (a).

(c) To require that any person requesting a public hearing shall accompany such request with a statement as to why the proposed transaction will not be of advantage to the persons to whom service is to be rendered, or will not be in the public interest.

4. The proposed rules, authority for which is contained in sections 4 (i) and 221 of the Communications Act of 1934, as amended, are set forth below.

5. Any interested party who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission, on or before August 1, 1958, a written statement or brief setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to the original comments or briefs may be filed within 10 days from the last day for filing original comments or briefs. The Commission will consider all such comments before taking action in this matter, and, if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

6. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: June 18, 1958.

Released: June 19, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Section 66.13 (a) (5) is amended to read as follows:

(5) A statement that any member of the public desiring to protest or support the application may communicate in writing with the Federal Communications Commission, Washington 25, D. C., on or before a specified date which shall be forty (40) days from the date of first posting of the notice.

2. Section 66.15 is amended to read as follows:

§ 66.15 *Procedure.* A public hearing is held with respect to such applications where a request therefor is made by a telephone company, an association of telephone companies, a State Commission or local governmental authority, or in such other cases as the Commission may determine. Requests for public hearing must be filed within forty (40) days from the date that the applicant first posts public notice of the filing of the application as required by § 66.13. Any such requests for public hearing should include a statement of reasons as to why the proposed transaction will not be of advantage to the persons to whom service is to be rendered or will not be in the public interest. Where a public hearing is to be held, reasonable notice thereof is given by the Commission to

the Governor of each State in which the physical property affected, or any part thereof, is situated, and to the State Commission having jurisdiction over the telephone companies and to such other parties as the Commission may deem advisable.

[F. R. Doc. 58-4806; Filed, June 24, 1958; 8:53 a. m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 139]

[No. 10122]

STANDARD TIME ZONE BOUNDARIES

NOTICE OF PROPOSED RULE MAKING

At a Session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 18th day of June A. D. 1958.

Upon further consideration of the record in the above-entitled proceeding and consideration of the petitions of the cities of Lexington, Richmond, Winchester, Owenton, Carrollton, Berea, Carlisle, Paris, Lancaster, Frankfort, Somerset, Flemingsburg, Irvine, Lawrenceburg, Cynthiana, Morehead, London, Nicholasville, Grayson, West Liberty, and Brooksville, and the Chambers of Commerce of Lexington, Berea, and Morehead, respectively, of the State of Kentucky, and petition filed by Eastern Air Lines, Inc., for extension of the Eastern Standard Time Zone so as to include additional portions of Kentucky; and it appearing that the changes in Kentucky proposed might require a change in the adjacent area of Tennessee; and of a separate petition of the City of Lexington for an order temporarily extending the limits of the United States Eastern Standard Time Zone as requested in the original petitions, pending the outcome of this reopened proceeding; and good cause appearing therefor:

It is ordered, That the said proceeding be, and it is hereby, reopened for further hearing, on the question of whether the orders of the Commission, dated October 24, 1918, and thereafter, defining the boundary line between the United States Standard Eastern and Central Time Zones, and restated in the order of the Commission, dated May 19, 1928, and further modified by the orders of August 14, 1936, August 25, 1947, and August 5, 1949, and August 17, 1949, should be so modified that the areas in Kentucky and Tennessee described below, or any of the remainder of the States of Kentucky or Tennessee now in the United States Standard Central Zone shall be embraced in the United States Standard Eastern Zone.

It is further ordered, That the petition of the City of Lexington for a temporary order be, and it is hereby, denied, for the reason that these appear to be no authority in the Standard Time Act for such an order under the circumstances.

And it is further ordered, That this proceeding be assigned for further hearing at the Federal Building, Lexington, Ky., on July 21, 1958, at 9:00 a. m., United States Standard Central Time (equiva-

lent to 10:00 a. m., Central Daylight Time or Eastern Standard Time), before Thomas E. Pyne, Hearing Examiner, and at such further places and dates as may be determined by the presiding Examiner; and that copies of this order and notice be served upon the petitioners, the Governors and Public Service Commissions of the States named, and the railroads, bus lines, and air lines engaged in interstate commerce, located in whole or in part in the States named; and that notices be given to the general public by depositing a copy of this order and notice in the office of the Secretary of the Commission for public inspection, and by filing copies of the said order and notice with the Director, Federal Register Division.

By the Commission, Division 3.

[SEAL] HAROLD D. McCoy,
Secretary.

Pursuant to section 4 (a) of the Administrative Procedure Act (60 Stat. 237; 5 U. S. Code 1003), notice is hereby given of the tentative proposal to modify the outstanding orders in the above-entitled proceeding so as to redefine the limits of the United States Standard Eastern and Central Time Zones, under authority of the Standard Time Act, 40 Stat. 450-451; 41 Stat. 1446; 42 Stat. 1434, as amended; 15 U. S. C. 261-265.

By order issued with the original report in this proceeding, 51 I. C. C. 273, (1918); as modified by order issued with the thirteenth supplemental report, 122 I. C. C. 122, (1927); as restated by the order issued with the sixteenth supplemental report, 142 I. C. C. 279, (1928); and as further modified by the orders issued with the twenty-first, twenty-third, twenty-fourth, twenty-seventh, and thirty-first supplemental reports, 218 I. C. C. 321, (1936); 222 I. C. C. 85, (1937); 246 I. C. C. 72, (1941); 269 I. C. C. 57, (1947); and 276 I. C. C. 128, (1949); the boundary between the eastern and central zones was defined so as to run from the southwest corner of the State of Ohio easterly along the thread of the Ohio River to the line of the Chesapeake & Ohio Railway between Cincinnati, Ohio, and Covington, Ky.; thence southerly and southeasterly immediately south of and parallel with the line of that road to Catlettsburg, Ky.; thence southerly immediately west of and parallel with the Big Sandy division of that road to the northern boundary of Lawrence County, Ky.; thence westerly and southerly along the west lines of Lawrence, Johnson, and Floyd Counties and the south line of Pike County to the boundary line between Kentucky and Virginia; thence southwesterly along that State boundary line to the east line of Harlan County, Ky.; thence northwesterly and southwesterly along the east and north lines of Harlan County and westerly along the north lines of Bell, Knox, Whitley, and McCreary Counties, Ky., to the line of the Cincinnati, New Orleans & Texas Pacific Railway (Southern Railway system); thence southerly just east of and parallel with that road to the north line of Rhea County, Tenn.; and thence southeasterly and southwesterly along the north and

west lines of Rhea County and west line of Hamilton County, Tenn., to the boundary between Tennessee and Georgia.

By the 1927 order in this proceeding, Cincinnati, Ohio, and Covington and Newport, Ky., were embraced in the eastern zone, along with points served by the line of the Chesapeake & Ohio along the south bank of the Ohio River between Covington and Catlettsburg, Ky., and in the eastern part of the State. In 1947, when the eastern zone was extended to include the Knoxville area in Tennessee a few counties in southeastern Kentucky were also added. As a result, Bell, Floyd, Harlan, Johnson, Knox, Lawrence, Martin, Pike, and Whitley Counties, Ky., are now entirely in the eastern zone, and the northeastern corner of Kenton County, Ky., the northern and eastern edges of Campbell and Greenup Counties, Ky., the eastern edges of Pendleton and Boyd Counties, Ky., the northern edges of Bracken, Mason, and Lewis Counties, Ky., and the eastern half of McCreary County, Ky., are in the eastern zone.

In the 1941 proceeding and again in 1947 proposals were before the Commission seeking the extension of the eastern zone to embrace a larger portion of eastern and central Kentucky, but they were denied because of the difficulties encountered and the lack of adequate support in the record for such a substantial change in the time zones.

Petitions have been filed on behalf of the cities of Lexington, Richmond, Winchester, Owenton, Carrollton, Berea, Carlisle, Paris, Lancaster, Frankfort, Somerset, Flemingsburg, Irvine, Lawrenceburg, Cynthiana, Morehead, London, Nicholasville, Grayson, West Liberty and Brooksville, Ky., and of the Lexington, Berea, and Morehead chambers of commerce, which seek a further extension of the eastern zone so as to embrace all of the 9 Kentucky counties now partly included and 45 additional counties in the eastern and central parts of Kentucky. A petition has also been filed by the City of Lexington for an order temporarily extending the eastern time zone so as to include the additional portions of Kentucky covered by the original petitions. Petitioner points out that many of the petitioning cities are now on central daylight-saving time, equivalent to eastern standard time, and that a State law, effective June 19, 1958, makes it mandatory that all Kentucky cities observe the standard time as designated by the Interstate Commerce Commission. It is the desire of petitioner that the proposed change be made effective before that date, so as to make it unnecessary for these cities to return to central standard time, pending the outcome of this proceeding.

Upon consideration of the petitions, Division 3 of the Commission has reopened the proceeding for further hearing; but has denied the petition for a temporary order.

The petitioners generally allege that the existing time-zone boundary is irregular and unrealistic, and has created a pocket of the central time zone in eastern Kentucky almost surrounded by the eastern zone; that business and in-

dustry of the area have been inconvenienced and handicapped by the existing boundary and that recent industrial and commercial growth has increased the importance of the difficulties because of time differences, particularly during the summer months when eastern daylight-saving time is observed at many important markets and distributing centers in the East and North; that most of the Kentucky cities in the central zone have been observing daylight-saving time during the summer months, and many of them did not turn their clocks back last fall, but have adopted the faster standard permanently. Petitioners further urge that the proposed extension of the eastern zone would better serve the commerce of the area as a whole and the other purposes of the Standard Time Act, and would reduce the existing confusion and inconvenience of the public.

It has also come to the Commission's attention that certain of the Kentucky counties which are only partly included in the eastern zone and certain adjacent counties which have never been included in the eastern zone under the orders entered in this proceeding, have been observing the eastern standard since, or shortly after, the 1927 order which extended the eastern zone to include Cincinnati, Ohio, Covington, Newport and Ashland, Ky., and other points in northern and eastern Kentucky. Officials and other residents of these counties claim that they understood they were actually in the eastern zone as defined by the Commission and urge their inclusion in any extension of the eastern zone as a result of this proceeding.

Based on the averments of the petitions, considered in the light of the record, particularly the hearings of 1927, 1941, and 1947, a proposed modification of the boundary line between the eastern and central time zones has been prepared and is shown below. The effect of such a line would be to transfer into the eastern zone the rest of the 9 Kentucky counties now partly in the eastern zone and 44 additional Kentucky counties, the westernmost of which are Gallatin, Owen, Franklin, Anderson, Mercer, Boyle, Lincoln and Pulaski Counties. The portion of Carroll County, Ky., east of the Kentucky River would also be embraced in the eastern zone. If the changes in Kentucky are made, they would appear to require the extension of the eastern zone in the adjacent area of Tennessee, namely, the inclusion in the eastern zone of all of Scott, Morgan, and Roane Counties, Tenn., now only partly in the eastern zone. Some railroad operating exceptions could be eliminated, but additional exceptions would be required. It is to be understood that the line shown below is strictly a proposal, set out for the convenience of the interested public, and is in no sense a final determination of the issues raised by the petitions.

The flood of correspondence from the area involved and the adjacent areas has indicated widespread public interest in the questions raised. In order to facilitate the participation of interests who might find it difficult or impossible to attend the hearing, and to expedite the

hearing, provision is hereby made for the receipt of written statements. Anyone wishing to make representations in favor of or against the changes proposed may do so through the submission of written data, views, or arguments. The original signed in ink and two copies of such submission should be filed with the Commission on or before July 15, 1958, and will be accorded such weight as is justified in the light of the entire record.

The proceeding is set for hearing in the Federal Building, Lexington, Ky., on July 21, 1958, at 9:00 a. m. United States standard central time (equivalent to 10:00 a. m. central daylight time or eastern standard time), before Thomas E. Pyne, Hearing Examiner.

The issue is confined to the question of whether the limits of the United States Standard Eastern Time Zone should be moved westward to include the areas in Kentucky and Tennessee described below, or any of the remainder of the States of Kentucky or Tennessee now in the Central Zone.

Attention is directed to the provisions of the Standard Time Act, 15 U. S. Code 261-265, which contemplate four time zones for the United States proper and specifically designates the standard of time to be observed within those zones with respect to the matters specified in that act. There is no provision for daylight-saving time in that act, nor is there any requirement of general observance nor any provision which would prevent the local adoption of daylight time. The authority of the Commission is confined to the determination of the limits of the zones. Evidence in support of a change in the law cannot be admitted.

It is expected that all interested persons who participate will cooperate to the end that a fair and complete presentation of the relevant facts may be made as briefly and as expeditiously as possible. To avoid duplication of testimony and assure a complete record, groups with the same or similar views are urged to select a representative for their presentation. Merely cumulative testimony will not be permitted. Written statements may be received at the hearing, provided they are supported by a competent witness who can vouch for their truth and accuracy. The proposed modification of the boundary line contained in Appendix A does not restrict the issues to that proposal, and any person may propose or support any other change in the line within the scope of the reopened proceeding, or may oppose any change in the existing line.

The railroads serving the area will be expected to check the proposed line and the operating exceptions shown below and to furnish for the record information concerning the existing junction points and division points in the area and other information as to their operations sufficient to assist the Commission in re-

defining the limits of the zones, should that become necessary, with due regard for the safety of operation and convenience of the public.

A copy of this notice shall be served upon the petitioners and upon the Governors and Public Service Commissions of the States of Kentucky and Tennessee and upon the railroads, bus lines and air lines engaged in interstate commerce, located in whole or in part in the States named. Notice to the general public shall be given by depositing a copy in the office of the Secretary of the Commission for public inspection, and by filing a copy with the Director, Federal Register Division.

Section 139.3 *Boundary line between eastern and central zones* proposed to be amended as follows:

Paragraphs (b), (c), and (d) are to be amended to read as follows:

(b) *Indiana-Ohio.* From the northeast corner of the State of Indiana southerly along the eastern boundary of Indiana and the western boundary of the State of Ohio to the Ohio River.

(c) *Kentucky.* From the southwest corner of the State of Ohio westerly and southerly along the thread of the Ohio River to the mouth of the Kentucky River; thence southerly along the thread of the Kentucky River to the north line

of Franklin County; thence westerly along the north line of Franklin County to the northwest corner of that county; and thence in a generally southerly direction along the west or south lines of Franklin, Anderson, Mercer, Boyle, Lincoln, Pulaski, and McCreary Counties to the boundary between the States of Kentucky and Tennessee.

(d) *Tennessee.* From the southwest corner of McCreary County, Ky., westerly along the northern boundary of the State of Tennessee to the west line of Scott County, Tenn.; thence in a generally southerly direction along the west line of Scott County, the north and west lines of Morgan County and the north line of Roane County to the north line of Rhea County; thence northwesterly along the north line of Rhea County; and thence southwesterly along the west lines of Rhea and Hamilton Counties to the boundary between the States of Tennessee and Georgia.

Paragraph (g) *Operating exceptions* so far as it provides exceptions for lines of the railroads in Kentucky and Tennessee, is amended by canceling certain existing exceptions and continuing others as indicated, and by providing additional exceptions as follows:

(1) *Lines east of boundary excepted from eastern zone.* Exceptions canceled:

Railroad	From—	To—
Louisville & Nashville Southern	Line of Knox County, Ky. Northern limits of Chattanooga, Tenn.	Northern limits of Corbin, Ky. North line of Rhea County, Tenn.

Exceptions continued or added: Those portions of the lines of railroad below named, located east of the zone boundary line above described, shall, for operating purposes only, be excepted from the United States standard eastern time zone and included within the United States standard central time zone, viz:

Railroad	From—	To—
Chesapeake & Ohio and Louisville & Nashville	West line of Franklin County, Ky. (east of Hutton (Gath), Ky.).	North yard limits of Lexington, Ky.
Louisville & Nashville	Kentucky River (west of Worthville, Ky.).	Latonia, Ky.
Do	West line of Boyle County, Ky. (east of Gravel Switch, Ky.).	Lancaster, Ky., and north yard limits of Sinks, Ky.
Louisville & Nashville (formerly Nashville, Chattanooga & St. Louis)	West line of Hamilton County, Tenn. (west of Hooker, Ga.).	Western limits of Chattanooga, Tenn.
Southern	Western limits of Chattanooga, Tenn.	Georgia-Alabama State line (southwest of Sulphur Springs, Ga.).
Do	West line of Anderson County, Ky. (west of Avenstoke, Ky.).	North yard limits of Lexington, Ky., and S. J. Tower (north of Danville, Ky.).
Tennessee Central	North line of Roane County, Tenn. (west of Rockwood, Tenn.).	Emory Gap, Tenn.

(2) *Lines west of boundary included in eastern zone.* Exceptions canceled:

Railroad	From—	To—
Chesapeake & Ohio	Line of Johnson County, Ky.	Carver, Ky.
Do	Line of Pike County, Ky.	Danham, Ky.
Louisville & Nashville	Line of Knox County, Ky.	Manchester and Herron, Ky.
Nashville, Chattanooga & St. Louis (now Louisville & Nashville)	Tennessee-Georgia State line (north of Graysville, Ga.).	Eastern limits of Chattanooga, Tenn.

NOTE: No additional exceptions of lines west of the zone boundary line appear to be necessary. The foregoing provisions as to operating exceptions apply only to lines which run into Kentucky or Tennessee. The existing exceptions of lines north of the Ohio River or south of the southern boundary of Tennessee will not be disturbed.

[F. R. Doc. 58-4755; Filed, June 24, 1958; 8:45 a. m.]

NOTICES

DEPARTMENT OF STATE

[Public Notice 157]

CERTAIN FOREIGN PASSPORTS
VALIDITY

Under the provisions of section 212 (a) (26) of the Immigration and Nationality Act, a nonimmigrant alien who makes application for a visa or for admission into the United States is required to be in possession of a passport which is valid for a minimum period of six months from the date of expiration of the initial period of his admission into the United States or his contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period. By reason of the foregoing requirement, certain foreign governments have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign-issuing authority for a period of six months beyond the expiration date specified in the passport. These agreements have the effect of extending the validity period of the foreign passport an additional six months notwithstanding the expiration date indicated in the passport. Notice is hereby given that the following foreign governments have concluded such an agreement with the Government of the United States:

Austria (Reisepass only), Bolivia, Brazil, Canada, Ceylon, Chile, Colombia, Cuba, Dominican Republic, Ethiopia, Germany (Reisepass only), Greece (issued in Greece only), Guatemala, Honduras, Iceland, India, Ireland, Israel, Mexico, Monaco, The Netherlands, Pakistan, Portugal, Spain, Switzerland, and United Kingdom.

This notice supersedes Public Notice 150 of April 13, 1957 (22 F. R. 2540).

RODERIC L. O'CONNOR,
Administrator,
Bureau of Security
and Consular Affairs.

JUNE 11, 1958.

[F. R. Doc. 58-4777; Filed, June 24, 1958;
8:46 a. m.]

DEPARTMENT OF THE TREASURY

United States Coast Guard

[CGFR 58-24]

WITHDRAWAL OF APPROVALS OF MODELS 2
AND 6 KAPOK LIFE PRESERVERS AND
MODELS 51 AND 55 FIBROUS GLASS LIFE
PRESERVERS

Tests of kapok life preserves have indicated that gasoline and light oils have a detrimental effect on the buoyancy of models 2 and 6 kapok life preservers which do not have a protective inner bag of vinyl film. Tests of fibrous glass life preservers have indicated that gasoline and light oils have a detrimental effect on the buoyancy of models 51 and 55 life preservers which do not have a protective

inner bag of vinyl film covering the pads inserts.

A notice of proposed withdrawal of approvals of models 2 and 6 kapok life preservers and models 51 and 55 fibrous glass life preservers was published in the FEDERAL REGISTER of February 12, 1958 (23 F. R. 909), in conjunction with a notice of proposed rule making to revise the specifications respecting the manufacture of kapok life preservers and fibrous glass life preservers. In accordance with this notice the Merchant Marine Council held a public hearing at Washington, D. C., on March 18, 1958. With respect to those models of life preservers now in service, the tests conducted indicated that no corrective action would be necessary at this time because of the excess buoyancy provided in these models. However, further studies are being made and if corrective action is considered necessary, the marine industry will be notified by means of a Navigation and Vessel Inspection Circular.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 120, dated July 31, 1956 (15 F. R. 6521), 167-14, dated November 26, 1954 (19 F. R. 8026), 167-15, dated January 3, 1955 (20 F. R. 840), 167-20, dated June 18, 1956 (21 F. R. 4894), and CGFR 56-28, dated July 24, 1956 (21 F. R. 5659), to prescribe requirements with respect to safety equipment in accordance with the statutes cited with the specifications designated 46 CFR 160.002 and 160.005:

It is ordered, That all approvals for models 2 and 6 kapok life preservers granted under the specification designated 46 CFR Subpart 160.002 and all approvals for models 51 and 55 fibrous glass life preservers granted under the specification designated 46 CFR Subpart 160.005 are withdrawn, effective on the ninety-first day after the date of publication of this document in the FEDERAL REGISTER: *Provided*, That any such life preservers manufactured prior to this date may be placed in service and/or continued in service so long as in good and serviceable condition.

Dated: June 18, 1958.

[SEAL] J. A. HIRSHFIELD,
Rear Admiral, U. S. Coast Guard,
Acting Commandant.

[F. R. Doc. 58-4798; Filed, June 24, 1958;
8:52 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Document 182]

[Classification 62]

ARIZONA

SMALL TRACT CLASSIFICATION

1. Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F. R. 2473), I hereby classify the following described public lands, totalling approximately 68.6 acres in Yava-

pai County, Arizona, as suitable for lease and sale for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a), as amended:

GILA AND SALT RIVER MERIDIAN

T. 14 N., R. 1 W.,
Sec. 31: E $\frac{1}{2}$ SE $\frac{1}{4}$.

2. Classification of the above described lands by this order segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid with a preference right to veterans of World War II and of the Korean conflict and other qualified persons entitled to preference under the act of September 27, 1944 (58 Stat. 497; 43 U. S. C. 279-284), as amended.

4. All valid applications filed prior to June 16, 1958, will be granted, as soon as possible, the preference right provided for by 43 CFR 257.5 (a).

E. I. ROWLAND,
State Supervisor.

JUNE 17, 1958.

[F. R. Doc. 58-4775; Filed, June 24, 1958;
8:45 a. m.]

Bureau of Reclamation

COLORADO RIVER STORAGE PROJECT,
COLORADO

FIRST FORM RECLAMATION WITHDRAWAL

NOVEMBER 27, 1956.

Pursuant to the authority delegated by Departmental Order No. 2765 of July 30, 1954, I hereby withdraw the following described lands from public entry, under the first form of withdrawal, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388):

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 49 N., R. 1 W.,
Sec. 19, Lot 1.
T. 48 N., R. 2 W.,
Sec. 5, Lot 2.
T. 49 N., R. 2 W.,
Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ and
W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 21, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 23, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 24, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 25, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 27, E $\frac{1}{2}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 28, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 31, Lots 1 and 3, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$
SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 32, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
T. 48 N., R. 3 W.,
Sec. 1, Lot 3;
Sec. 2, Lots 11, 20, 21, 29, 30 and 32;
Sec. 3, Lots 2, 3, 4, 6 and 7;
Sec. 7, Lots 2 to 4 incl., and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 11, Lots 2, 3, 4, 8, 9, 12, 13 and 15;
Sec. 14, Lot 2;

Sec. 18, Lot 1, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 19, E $\frac{1}{2}$ E $\frac{1}{2}$;
 Sec. 29, W $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 T. 49 N., R. 3 W.,
 Sec. 25, SW $\frac{1}{4}$ SW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 26, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 35, N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 36, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 T. 48 N., R. 4 W.,
 Sec. 3, Lot 3;
 Sec. 5, Lot 15;
 T. 49 N., R. 4 W.,
 Sec. 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 9, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 16, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 29, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
 The above areas aggregate 4248.88 acres.

E. G. NIELSEN,
Acting Commissioner.
 [73909]

JUNE 19, 1958.

I concur. The records of the Bureau of Land Management will be noted accordingly. Except for national forest lands in T. 49 N., R. 4 W., the lands shall be administered by the Bureau of Land Management until such time as they are needed for reclamation purposes.

EDWARD WOOLEY,
Director.

Bureau of Land Management.

[F. R. Doc. 58-4776; Filed, June 24, 1958;
 8:46 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 9220]

AMERICAN AIRLINES, INC.; ENFORCEMENT
 PROCEEDING

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the unrealistic schedules filed and published by American Airlines, Inc.

Notice is hereby given that the hearing in the above-entitled proceeding heretofore assigned to be held on June 25, 1958, is postponed until July 16, 1958, at 10:00 a. m., e. d. s. t., in Room 1510, Temporary Building No. 4, 17th Street and Constitution Avenue NW., Washington, D. C., before Examiner Richard A. Walsh.

Dated at Washington, D. C., June 20, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-4816; Filed, June 24, 1958;
 8:55 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MINNESOTA

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a-2 (a)), as amended, it has been determined that in Stearns County,

Minnesota, a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies or other responsible sources.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named county after June 30, 1959, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 20th day of June 1958.

[SEAL]

TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 58-4813; Filed, June 24, 1958;
 8:55 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

AMERICAN PRESIDENT LINES, LTD.

NOTICE OF APPLICATION

Notice is hereby given of the application of American President Lines, Ltd., pursuant to section 605 (c) of the Merchant Marine Act, 1936, as amended, for amendment of the service description of its Round-the-World Westbound Service so as to authorize permissive calls by its Combination Vessels at Acapulco, Mexico.

Parties having an interest in said application may file with the Secretary, Federal Maritime Board, Washington 25, D. C., in writing, in triplicate, by close of business on July 10, 1958, any objections thereto, and after said date the Federal Maritime Board will take such action with respect to the application and any objections thereto as may be deemed appropriate.

Dated: June 20, 1958.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,
Secretary.

[F. R. Doc. 58-4793; Filed, June 24, 1958;
 8:50 a. m.]

[Docket No. S-73]

WATERMAN STEAMSHIP CORP.

AMENDED NOTICE OF HEARING

The notices published in the FEDERAL REGISTER on June 4 and August 21, 1957, concerning a public hearing to be held under sections 605 (c) and 805 (a) of the Merchant Marine Act, 1936, as amended, upon an application of Waterman Steamship Corporation, for an operating-differential subsidy agreement, are hereby amended to delete the paragraphs relating to the domestic services in connection with which the section 805 (a) permission was requested, and to substitute in lieu thereof the following paragraphs. In all other respects the notices of June 4 and August 21, 1957 remain unchanged.

An issue of the proceeding will be whether the Board should grant the

written permissions sought under section 805 (a) of the act to permit the Applicant's wholly owned subsidiary, Waterman Steamship Corporation of Puerto Rico, to operate in the domestic service between U. S. Gulf ports east of and including New Orleans, Louisiana, and ports in Puerto Rico; to permit an affiliate, Pan-Atlantic Steamship Corporation, to operate in the domestic services (1) between U. S. Atlantic ports and ports in Puerto Rico, (2) between U. S. Atlantic ports, (3) between U. S. Gulf ports, and (4) between U. S. Atlantic ports and U. S. Gulf ports; to permit Beauregard, Inc., a wholly owned subsidiary, to continue to charter the SS "Beauregard" to Pan-Atlantic Steamship Corporation for operation (1) in the U. S. Atlantic/U. S. Gulf trade and/or (b) U. S. Atlantic/Puerto Rico trade; and for Waterman Steamship Corporation to continue to charter (2) the SS's "Claiborne" and "Monarch of the Seas" to Waterman Steamship Corporation of Puerto Rico for operation in the U. S. Gulf/Puerto Rico trade and (3) the SS's "Blenville", "Raphael Semmes", "Fairland", "Azalea City" and "Gateway City" to Pan-Atlantic Steamship Corporation for operation in the U. S. Atlantic/U. S. Gulf coastwise trade and/or U. S. Atlantic/Puerto Rico trade.

The purpose of the hearing under section 805 (a) of the act is to receive evidence relevant to whether the Applicant and/or its affiliates and subsidiaries named above, or predecessors in interest, were in bona fide operation as common carriers by water in the domestic inter-coastal or coastwise services as described above in 1935 over the routes for which application is made and have so operated since that time, except as to interruptions of service over which the Applicant, its affiliates and subsidiaries, or predecessors in interest, had no control, and if not whether the granting of such applications (a) will result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service or (b) would be prejudicial to the objects and policy of the act.

The hearing will be before an Examiner, at a time and place to be announced, in accordance with the Federal Maritime Board's rules of practice and procedure and a recommended decision will be issued.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to intervene in the proceeding are requested to notify the Secretary of the Federal Maritime Board by close of business on July 10, 1958, and should promptly file petitions for leave to intervene in accordance with said rules of practice and procedure.

Dated: June 20, 1958.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,
Secretary.

[F. R. Doc. 58-4794; Filed, June 24, 1958;
 8:50 a. m.]

FERN-VILLE FAR EAST LINES AND COMPAGNIE DE TRANSPORTS OCEANQUES

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

Agreement No. 17-A, between the member lines of the Far East Conference, supplements the approved Agreement of that Conference—No. 17, as amended, to provide that Fern-Ville Far East Lines and Compagnie de Transports Oceaniques shall collect no freight in excess of freight paid at the rate of \$26.00 per 2,240 pounds or 40 cubic feet on shipments carried by them for Otis, McAllister & Company under their contract for the sale of approximately 3,000 tons of corrugated steel sheets to National Marketing Corporation of the Republic of the Philippines, and that said lines shall be released from their obligation under the conference agreement to collect the full tariff rate on such shipments.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: June 20, 1958.

By order of the Federal Maritime Board,

(SEAL) JAMES L. PIMPER,
Secretary.

[F. R. Doc. 58-4795; Filed, June 24, 1958; 8:51 a. m.]

WARD GARCIA, S. A. AND WATERMAN STEAMSHIP CORPORATION OF PUERTO RICO

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

Agreement No. 8313, between Ward Garcia, S. A., and Waterman Steamship Corporation of Puerto Rico, covers the transportation of general cargo under through bills of lading from Mexico to Puerto Rico, with transshipment at New Orleans, Louisiana.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: June 20, 1958.

By order of the Federal Maritime Board,

(SEAL) JAMES L. PIMPER,
Secretary.

[F. R. Doc. 58-4796; Filed, June 24, 1958; 8:51 a. m.]

Office of the Secretary

WILLIAM E. HOTALING

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of December 21, 1957, 22 F. R. 10473.

A. Deletions: None.
B. Additions:
Sinclair Oil Company.
Niagara Mohawk Power and Light.
One William Street Fund.

This statement is made as of June 10, 1958.

WILLIAM E. HOTALING.

JUNE 12, 1958.

[F. R. Doc. 58-4786; Filed, June 24, 1958; 8:48 a. m.]

LAWRENCE H. ZAHN

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of January 3, 1957, 22 F. R. 88; June 20, 1957, 22 F. R. 4369; December 12, 1957, 22 F. R. 9979.

A. Deletions: No change.
B. Additions: Western Union Telegraph Company.

This statement is made as of June 3, 1958.

LAWRENCE H. ZAHN.

JUNE 3, 1958.

[F. R. Doc. 58-4787; Filed, June 24, 1958; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11835; FCC 58-579]

TOWN AND COUNTRY RADIO, INC.

ORDER REMANDING PROCEEDING FOR FURTHER HEARING ON STATED ISSUES

In re application of Town and Country Radio, Inc., Rockford, Illinois; Docket No. 11835, File No. BP-10484; for construction permit.

At a session of the Federal Communications Commission held at its offices in

Washington, D. C., on the 18th day of June 1958:

The Commission having under consideration (1) a petition to reopen the record herein filed March 21, 1958, by Plough Broadcasting Company, Inc.; (2) an opposition thereto filed April 3, 1958, by Town and Country Radio, Inc.; (3) a reply filed April 10, 1958, by the Chief of the Commission's Broadcast Bureau; (4) a reply to (2) and (3) filed April 14, 1958, by Plough Broadcasting Company, Inc.;¹ and (5) an answer to (4) filed April 25, 1958, by Town and Country Radio, Inc.;²

It appearing, that subsequent to the hearing in this proceeding, Hearing Examiner H. Gifford Irion issued an Initial Decision (released April 15, 1957) and, after further hearing, a supplement thereto (released December 3, 1957); that, thereafter, exceptions were filed and oral argument was scheduled before the Commission en banc for April 21, 1958; and that, subsequently, pursuant to request of Plough Broadcasting Company, Inc., oral argument was postponed without date pending Commission consideration of the subject petition to reopen the record; and

It further appearing, that Plough Broadcasting Company, Inc., on the basis of recently discovered facts, requests reopening of the record to inquire into the financial ability of John R. Livingston, the President, director and 48 percent stockholder of the applicant, to meet his commitment to advance \$8,000 to applicant corporation and the basic character qualifications of Mr. Livingston to own and operate a standard broadcast station based upon a letter of February 18, 1958, addressed to the Commission from a W. L. Murray, a 25 percent stockholder in a corporation which is the licensee of standard broadcast station KCLN in Clinton, Iowa; and

It further appearing, that a review of the petition under consideration shows the basis for petitioner's request as being the allegations that Mr. Livingston has not accurately shown his present financial status, including the borrowing of substantial sums of money; that Mr. Livingston prematurely exercised control over the affairs of Station KCLN prior to obtaining Commission approval of the sale of Station KCLN to Mr. Livingston and his associates; and that Mr. Livingston has operated Station KCLN in such a manner as to reflect upon his qualifications to be a broadcast licensee in Rockford, Illinois; and

It further appearing that a substantial conflict of facts bearing upon financial and character qualifications has been shown, resolution of which can be obtained only through further hearing thereon;

Accordingly, it is ordered, That the petition to reopen the record, filed by Plough Broadcasting Company, Inc. on March 21, 1958, is granted to the extent set forth below; that the above-entitled

¹ By order of April 22, 1958, the Commission accepted the filing of this untimely pleading.

² The filing of this additional pleading was permitted by order of Motion's Commissioner released May 12, 1958.

proceeding is remanded to the Hearing Examiner, who presided at this hearing, with instructions to reopen the record for further hearing on the issues hereinafter specified; and that after procedural steps appropriate to the further proceeding herein have been taken, the Hearing Examiner shall issue a further supplemental Initial Decision; and

It is further ordered, That the further hearing be held upon the following issues:

1. To determine whether John R. Livingston, a 48 percent stockholder in the applicant, Town and Country, exercised control and dictated the policies of Station KCLN, prior to consent by the Commission to the assignment, in violation of section 310 (b) of the Communications Act of 1934, as amended.

2. To inquire further into the financial qualifications of Town and Country on the premise that John R. Livingston may not now be able to meet his financial commitments amounting to \$8,000.

3. To determine on the basis of the foregoing whether facts exist which indicate that John R. Livingston and Town and Country Radio, Inc. do not possess the necessary basic character and other qualifications to be a licensee of this Commission.

Both the burden of proof and the burden of proceeding with the introduction of evidence upon the foregoing issues are placed upon Plough Broadcasting Company, Inc.*

Released: June 19, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-4807; Filed, June 24, 1958;
8:53 a. m.]

[Docket No. 11982 etc.; FCC 58-580]

ENTERPRISE BROADCASTING CO. ET AL.

MEMORANDUM OPINION AND ORDER
AMENDING ISSUES

In re application of Enterprise Broadcasting Co., Fresno, California; Docket No. 11982, File No. BP-10319; Air Waves, Incorporated (KONG), Visalia, California; Docket No. 11983, File No. BP-10432; Radio Dinuba Company (KRDU), Dinuba, California; Docket No. 11984, File No. BP-10735; for construction permits.

1. The Commission has before it for its consideration (1) a petition to reopen the record and for enlargement of issues filed by Enterprise Broadcasting Co. (Enterprise) January 30, 1958; (2) opposition to petition to enlarge and reopen record filed February 10, 1958, by Radio Dinuba Company (Dinuba); (3) reply

*This is not to be construed as relieving the applicant of the burden it ultimately has of proving its own qualifications to the extent that they have been placed in issue by previous orders herein.

to petition to enlarge filed February 12, 1958, by the Broadcast Bureau; and (4) reply to Radio Dinuba's opposition and comments with respect to Broadcast Bureau's reply thereto filed February 19, 1958, by Enterprise.

2. This proceeding involves three applicants: Enterprise Broadcasting Co. (Enterprise), Fresno, California; Air Waves, Incorporated (KONG), Visalia, California; and Radio Dinuba Company (KRDU), Dinuba, California. Enterprise seeks a new standard broadcast facility; Dinuba and Air Waves seek improvement of existing facilities. The applications of Enterprise and Air Waves are not mutually exclusive, and both may be granted. The application of Dinuba is mutually exclusive with the applications of Enterprise and Air Waves.

3. To understand the basis of the relief sought in the instant petition of Enterprise, it will be helpful to set forth some of the history of this proceeding. On January 13, 1958, Air Waves filed a motion before the Chief Hearing Examiner to dismiss its application. In connection therewith, Air Waves submitted two agreements, each dated January 8, 1958, made by and between Air Waves and Dinuba, one of which provides for the payment of the sum of \$4,609.41 by Dinuba to Air Waves for the latter's expenses in prosecuting its application, \$2,000 of which is payable only in the event the Commission dismisses Air Waves' application and the balance (\$2,609.41) is payable on condition the Commission grants the application of Dinuba. The other agreement provides for the employment of Mr. Harry Layman (president and sole stockholder of Air Waves) by Dinuba as their local sales representative in the Visalia area for a period of four years, provided that Dinuba obtains a grant of its instant application. In addition, said agreement provides for the payment of a commission to Mr. Layman of 30 percent of all sales made in Visalia by Layman or Dinuba excepting sales of broadcast time to three named business establishments.

4. On January 23, 1958, oral argument on said motion to dismiss was held before the Chief Hearing Examiner. The Broadcast Bureau argued that it should be dismissed with prejudice; otherwise the motion was unopposed. On January 27, 1958, the Chief Hearing Examiner, by formal order, denied the motion and retained Air Waves' application in hearing status.¹ In his order the Chief Hearing Examiner pointed out that there had been no formal showing as to actual expenditures made in the prosecution of Air Waves' application, as required by the provisions of § 1.312 (c) of the Com-

¹ Air Waves did not appeal from the Examiner's ruling, consequently the Commission has had no opportunity to pass upon the propriety of the Chief Hearing Examiner's ruling.

mission's rules.² The Chief Hearing Examiner therefore took the position that the Broadcast Bureau could "develop upon the record all of the facts and circumstances surrounding" the agreements of January 8, 1958. Also, on January 27, 1958, the Hearing Examiner, independently of the above mentioned order of the Chief Hearing Examiner, received into evidence certain testimony with respect to the agreements of January 8, 1958, to the extent that Dinuba's principals were examined by the Broadcast Bureau and Enterprise, whereupon the record was closed. Air Waves did not appear at this hearing.

5. On January 30, 1958, Enterprise filed its instant petition to reopen the record and enlarge the issues, basing its allegations on the matters and things developed at the hearing of January 27, 1958. Its petition for enlargement includes five distinct issues, some of which contain sub-issues. The subject matter of its request concerns the aforementioned agreements of January 8, 1958, made by and between Air Waves and Dinuba. It is contended that a reasonable interpretation of these agreements gives rise to the following pertinent areas of inquiry: (1) whether or not said agreements create an interest within the meaning of § 3.35 of the Commission's rules;³ and (2) whether Stations KONG (Air Waves) and KRDU (Dinuba) seek thereby to control competition between themselves adverse to the public interest.

6. In support of its petition to enlarge, Enterprise alleges that the agreement of January 8, 1958 between Air Waves and Dinuba relating to the employment of Mr. Layman will insure Dinuba's non-participation in the Visalia service area. In this connection, Enterprise makes reference to the record (Tr. 252) whereat in response to cross-examination by counsel for Enterprise, Mr. Hofer, president of Dinuba, testified that the total compensation which Mr. Layman, president of Air Waves, may expect to realize under the 30 percent commission provision would amount to approximately \$25.00 to \$30.00 per year. Such a provision, Enterprise urges, demonstrates that the real purpose of said agreement is to insure Air Waves (KONG) that Dinuba (KRDU) will not compete in the Visalia market which presently is the territory of KONG. Enterprise further contends that Air Waves has an interest in Dinuba's application by reason of the provision of the agreement which expressly conditions the payment by Dinuba to Air Waves of the sum of \$2,609.41 upon the grant of Dinuba's application. The nature of this interest, it is contended, is such as to raise an issue with respect to a possible violation of § 3.35 of the Com-

² Section 1.312 (c) provides, inter alia, that a motion to dismiss an application without prejudice after it has been designated for hearing must be accompanied by an affidavit as to whether or not consideration has been promised to or received by petitioner in which case the affidavit shall set forth in full detail all facts relevant thereto.

³ This is the so-called duopoly rule.

mission's rules. In support of the latter contention, Enterprise points out that the engineering evidence of record discloses a substantial overlap of the 2.0 mv/m contours of Dinuba (KRDU) and Air Waves (KONG) and an overlap of Dinuba's nighttime interference-free coverage contour with that of Air Waves in almost "25 percent of the area served by Dinuba at night". Lastly, Enterprise alleges upon information and belief that Dinuba has entered into a sales agreement with one John M. Banks for broadcast time for resale and since Dinuba has failed to file the information relating to said agreement, it is alleged that Dinuba has violated § 1.342 (c) of the Commission's rules.

7. The Broadcast Bureau opposes in part Enterprise's petition for enlargement. The Bureau takes the position that ordinarily evidence relevant to Enterprise's proposed issues with respect to the agreements of January 8, 1958, properly could be received under the general issue provided in § 1.363 (c) of the Commission's rules and regulations but since Air Waves is still a party to the within proceeding the Bureau proposes an issue as follows: "To determine the purpose of and reasons for the arrangements under the two agreements executed January 8, 1958, between the principals of Radio Dinuba Company (KRDU) and Air Waves, Incorporated (KONG) looking toward the dismissal of the application of Air Waves, Incorporated (KONG) and to determine in the light of the evidence adduced with respect thereto whether a grant to KRDU would be in the public interest."

8. The Broadcast Bureau opposes any enlargement of issues with respect to the existence of a contract relating to the sale of broadcast time to "time brokers" for resale to which Dinuba allegedly is a party.

9. Enterprise, in its comments to the Bureau's reply pleading, states that it is satisfied with the issue proposed by the Bureau, but insists that a further issue should be added with respect to the above mentioned "time broker" contract.

10. Dinuba opposes the petition for enlargement. In support of its opposition, Dinuba in substance alleges that: (1) Enterprise failed to oppose Air Waves' motion before the Chief Hearing Examiner to dismiss its application and should, therefore, be precluded from seeking an enlargement of issues relating to the facts and circumstances surrounding the January 8, 1958, agreements between Dinuba and Air Waves; (2) the engineering data upon which Enterprise relies in support of its petition for enlargement of issues has been on file for a con-

siderable period of time prior to the filing of the within petition, thus rendering said petition untimely; and (3) Dinuba categorically denies that it is a party to any contract for sale of broadcast time to "time brokers" for resale.

11. We see no merit in Dinuba's contention that Enterprise is somehow estopped to petition for enlargement of issues at this time because of its failure to oppose Air Waves' motion to dismiss its application filed January 13, 1958, before the Chief Hearing Examiner. That motion, having been denied, is, in legal contemplation, a nullity insofar as Enterprise's rights are concerned. Moreover, we are in agreement with the view expressed by the Broadcast Bureau that had Air Waves' motion to dismiss been granted, evidence relevant to Enterprise's proposed issues as regards the agreements of January 8, 1958, properly could be received under the general issue provided in § 1.363 (c) of the Commission's rules and regulations.

12. In addition, contrary to the contentions of Dinuba, we find Enterprise's petition to be timely filed. The fact that the engineering data upon which Enterprise relies in partial support of its petition has been on file for a considerable period of time does not make said petition belated or stale. We think a fair evaluation of the record supports the conclusion that petitioner could not reasonably have been expected to discover the alleged relevance between the engineering data and the agreements of January 8, 1958, which forms the substance of its petition, prior to the hearing of January 27, 1958. The filing of the petition on January 30, 1958, is a clear demonstration of diligence on the part of petitioner.

13. Although reasonable minds might differ with respect to the construction to be placed on the agreements of January 8, 1958, between Dinuba and Air Waves, we are of the view that petitioner has alleged facts sufficiently probative to warrant an evidentiary hearing into the intentions of the parties thereto, as well as the practical effect thereof, insofar as the same may bear upon the public interest generally and, in particular, § 3.35 of the Commission's rules and regulations.

14. Lastly, we are in agreement with the contentions of Dinuba and the Broadcast Bureau that petitioner has failed to allege any facts or circumstances which would warrant inquiry into the question of whether or not Dinuba is a party to any contract relating to the sale of broadcast time to "time brokers" for resale.

In view of the foregoing: *It is ordered*, This 18th day of June 1958, that the petition for enlargement of issues with respect to the agreements of January 8, 1958, made by and between Radio Dinuba Company (KRDU) and Air Waves, Incorporated (KONG) is granted and in all other respects said petition is denied.

It is further ordered, That the issues in the above-entitled proceeding are enlarged by the addition of the following issue: "To determine the purpose of and reasons for the arrangements under the

two agreements executed January 8, 1958, between the principals of Radio Dinuba Company (KRDU) and Air Waves, Incorporated (KONG) looking toward the dismissal of the application of Air Waves, Incorporated (KONG) and to determine in the light of the evidence adduced with respect thereto whether a grant to KRDU would be in the public interest."

Released: June 19, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-4808; Filed, June 24, 1958;
8:53 a. m.]

[Docket No. 12365; FCC 58M-657]

WILLARD MOBLEY

ORDER CONTINUING HEARING

In the matter of Willard Mobley, P. O. Box 266, Aransas Pass, Texas; Docket No. 12365; order to Show Cause Why There Should Not Be Revoked the License for Radio Station WB-8053 Aboard the Vessel "Frances S."

The Hearing Examiner having under consideration a motion filed on June 16, 1958, by the Safety and Special Radio Services Bureau, requesting that the hearing in the above-entitled proceeding presently scheduled to commence on June 23, 1958, at 2:00 p. m., be continued indefinitely; and

It appearing, that the public interest requires an early consideration of such motion and good cause has been shown for the grant thereof;

It is ordered, This 19th day of June 1958, that the motion be and it is hereby granted; and the hearing in the above-entitled proceeding be and it is hereby continued to a time and place to be specified in a subsequent order.

Released: June 19, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-4809; Filed June 24, 1958;
8:54 a. m.]

[Mexican List No. 210]

MEXICAN BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES AND
CORRECTIONS IN ASSIGNMENTS

MAY 17, 1958.

Notification under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignments of Mexican Broadcast Stations modifying the appendix containing assignments of Mexican Broadcast Stations (Mimeograph 47214-6) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

*Section 1.363 (c) provides: "(c) In all cases arising under paragraphs (a) and (b) of this section, the hearing examiner will consider in the initial decision, the issue of whether a grant of the remaining application or applications to be prosecuted would be in the public interest in the light of the arrangement whereunder the parties effected a consolidation of their respective interests or the competing applications were either dismissed or amended and removed from hearing."

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
XECK (change in frequency from 1340 kc.).	Durango, Durango.....	620 kilocycles 1000 w D/100 w N.	ND	U	IV	Nov. 17, 1958
XEDF (correction in time of operation).	Mexico, D. F.....	970 kilocycles 5 kw D/1 kw N.	DA-N	U	III	May 17, 1958
XEPB (new).....	Hermosillo, Sonora.....	1010 kilocycles 250 w D.....	ND	D	II	Nov. 17, 1958
XEXR (new).....	Ciudad Valles, San Luis Potosi.....	1800 kilocycles 1000 w D.....	ND	D	III	Do.
XETN (new).....	Tuxtepec, Oaxaca.....	1520 kilocycles 1000 w D/100 w N.	ND	U	IV	Do.
XECK (delete assignment—see 620 kc.).	Durango, Durango.....	1240 kilocycles 1000 w D/250 w N.	ND	U	IV	
XENS (new).....	Navojia, Sonora.....	1480 kilocycles 1000 w.....	DA-N	U	III	Do.
XETH (new).....	Huimanguillo, Tabasco.....	1520 kilocycles 1000 w D/100 w N.	ND	U	II	Do.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-4810; Filed, June 24, 1958; 8:54 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-102]

AMERICAN MACHINE & FOUNDRY CO.

NOTICE OF ISSUANCE OF FACILITY EXPORT LICENSE

Please take notice that no request for formal hearing having been filed following filing of a notice of proposed action with the Federal Register Division the Atomic Energy Commission has this date issued License No. XR-21 to American Machine & Foundry Company authorizing the export of a 1,000 kilowatt pool-type research reactor to Commissariat a L'Energie Atomique, Israel. A notice of proposed issuance of this license was published in the FEDERAL REGISTER on May 3, 1958, 23 F. R. 2990.

Dated at Germantown, Md., this 12th day of June 1958.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of
Licensing and Regulation.

[F. R. Doc. 58-4772; Filed, June 24, 1958; 8:45 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-13210, etc.]

GEORGE JACKSON ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

JUNE 19, 1958.

In the matters of George Jackson, Docket No. G-13210; Crescent Oil & Gas Corporation, Operator, et al.,¹ Docket No. G-13818; United Producing Company, Inc., Operator, et al.,² Docket No. G-

14162; The Texas Company,³ Docket No. G-14241; Sinclair Oil & Gas Company,⁴ Docket No. G-14350; Aztec Oil & Gas Company,⁵ Docket Nos. G-14453 and G-14547; Skelly Oil Company,⁶ Docket No. G-14513; Skelly Oil Company,⁷ Docket No. G-14549; Aztec Oil & Gas Company,⁸ Docket No. G-14563; Arkansas Louisiana Gas Company, Docket No. G-14659.

Take notice that each of the above-designated parties, hereinafter referred to as Applicants, has filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the sale of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications which are on file with the Commission and open to public inspection.

Applicants produce and propose to sell natural gas for transportation in interstate commerce for resale as indicated below.

Docket No.; Location of Field; Buyer

G-13210; Union District, Preston County, West Virginia; Cumberland and Allegheny Gas Company.

G-13818; Waskom Field, Panola County, Texas; Texas Eastern Transmission Corporation.

G-14162; Mocane Field, Beaver County, Oklahoma; Colorado Interstate Gas Company.
G-14241; Rhodes, Langh-Mattix and Dollarhide Fields, Lea County, New Mexico; El Paso Natural Gas Company.

G-14350; Eunice Pool, Lea County, New Mexico; El Paso Natural Gas Company.

G-14453, G-14547; Blanco (Mesaverde) Field, San Juan County, New Mexico; El Paso Natural Gas Company.

G-14513; Pictured Cliffs Field, Rio Arriba County, New Mexico; El Paso Natural Gas Company.

G-14549; San Juan Basin, La Plata County, Colorado; Pacific Northwest Pipeline Corporation.

G-14563; Aztec (Pictured Cliffs) Field, San Juan County, New Mexico; El Paso Natural Gas Company.

G-14659; Jordan and Jernigan "A" Units, Bethany Field, Panola County, Texas; United Gas Pipe Line Company.

These matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 24, 1958, at 9:30 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 14, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

JOSEPH H. GUTHRIE,
Secretary.

¹ Application covers proposed sale of gas pursuant to five separate ratification agreements dated August 9, 12, 21, 25, and 27, 1957, of a basic contract dated July 16, 1956, as amended, between Crescent Oil and Gas Corporation, Seller, and Texas Eastern, Buyer. By the above-mentioned ratification agreements, W. E. Mitchell, Jr., J. I. Roberts, A. L. Roquemore, Jr., Gilbert M. Turner and W. M. Bill Horner and Max Clark, respectively, added additional acreages to and extended the H. F. Edgar Unit (previously dedicated to the basic contract) and became signatory parties to said basic contract by ratification.

² Application covers proposed sale of gas pursuant to a ratification agreement dated February 15, 1957, of a basic contract dated March 14, 1956, as amended, between United Producing Company, Inc., Seller, and Colorado Interstate, Buyer. The subject ratification agreement amends the basic contract by adding additional acreage dedicated by R. E. Smith who is a signatory party to the ratification agreement which has also been signed by the purchaser.

³ Application covers a proposed sale of natural gas pursuant to five amendatory agreements dated September 3, 1954, November 1, 1954, August 23, 1955, December 18, 1956, and November 18, 1957, which add additional acreages to a basic contract dated November 7, 1953, as amended. Applicant was authorized in Docket No. G-4616 covering the sale of gas under the basic contract. Amendatory agreement dated December 18, 1956, limited production to depths down to and including the Queen Formation and amendatory agreement dated November 18, 1957, limited production to horizons above the base of the Drinkard Formation.

See footnotes at end of document.

* Application covers a proposed sale of natural gas pursuant to an amendatory agreement dated November 1, 1957, which adds additional acreage to a basic contract dated March 31, 1953, as amended.

* Aztec Oil & Gas Company, non-operator, is filing for its 12.5 percent and 6.12584 percent working interest in the Snyder No. 1 (Docket No. G-14547) and the Federal No. 1 (Docket No. G-14453) Units, respectively, production from which is proposed to be sold pursuant to two amendatory agreements dated December 2, 1957, and January 31, 1958, which add additional acreages to a basic contract dated February 2, 1951, as amended. Aztec received authorization in Docket No. G-7241 covering the sale of gas under the basic contract. Production is limited to the Mesaverde Formation.

* Application covers a proposed sale of natural gas pursuant to an amendatory agreement dated February 3, 1958, which adds additional acreage to a basic contract dated March 9, 1953, as amended. Applicant received authorization in Docket No. G-5317 covering the sale of gas under the basic contract. Production is limited to depths down to and including the Pictured Cliffs Formation.

* Skelly Oil Company, nonoperator, is filing for its 12.5 percent interest in the Ignacio 33-8 Unit, production from which is proposed to be sold to Pacific Northwest (Purchaser and Operator of subject unit) pursuant to an amendatory agreement dated February 6, 1958, which adds additional acreage to a basic contract dated March 21, 1956. Skelly received authorization in Docket No. G-10995 covering sale under the basic contract. Amendatory agreement limits production to the Mesaverde Formation.

* Aztec Oil & Gas Company, nonoperator, is filing for its 25.54620 percent working interest in the State Unit "U" No. 1, production from which is proposed to be sold pursuant to an amendatory agreement dated January 31, 1958, which adds additional acreage to a basic contract dated July 17, 1953, as amended. Aztec received authorization in Docket No. G-7241 covering the sale of gas under the basic contract. Production is limited to depths down to and including the Pictured Cliffs Formation.

Amendment filed May 15, 1958 supplementing original application to include dedication of additional acreage under supplemental agreement dated April 10, 1958 to basic sales contract.

[F. R. Doc. 58-4799; Filed, June 24, 1958; 8:49 a. m.]

GENERAL SERVICES ADMINISTRATION

[Delegation of Authority 343]

SECRETARY OF COMMERCE

DELEGATION OF AUTHORITY WITH RESPECT TO NEGOTIATION OF CONTRACTS FOR FRESH OR PERISHABLE FOODS FOR CIVIL AERONAUTICS ADMINISTRATION COMMISSARIES ON WAKE AND CANTON ISLANDS

1. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, herein called "the act", authority is hereby delegated to the Secretary of Commerce to negotiate without advertising under section 302 (c) (8) of the act contracts for the procurement of fresh or perishable foods for the Civil Aeronautics Administration commissaries on Wake and Canton Islands.

2. This authority shall be exercised in accordance with applicable limitations

and requirements in the act, particularly sections 304, 305, and 307, and in accordance with policies, procedures, and controls prescribed by the General Services Administration.

3. The authority contained herein may be redelegated to any official of the Department of Commerce.

4. This delegation is effective as of the date hereof, and shall not be extended beyond December 31, 1959.

Dated: June 17, 1958.

FRANKLIN FLOETE,
Administrator.

[F. R. Doc. 58-4799; Filed, June 24, 1958; 8:52 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 222]

MOTOR CARRIER APPLICATIONS

JUNE 20, 1958.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.241).

All hearings will be called at 9:30 o'clock a. m., United States standard time (or 9:30 o'clock a. m., local daylight saving time), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 2998 (Sub No. 21), filed June 12, 1958. Applicant: WOLVERINE EXPRESS, INCORPORATED, 701 Erie, Muskegon, Mich. Applicant's attorney: Leonard D. Verdier, Jr., 300 Michigan Trust Building, Grand Rapids 2, Mich. Authority sought to operate as a common carrier, by motor vehicle, transporting: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Consumers Power Company plant in Port Sheldon Township, Ottawa County, Mich., as an off-route point in connection with applicant's authorized regular route operations between Muskegon, Mich., and Benton Harbor, Mich., over U. S. Highway 31. Applicant is authorized to conduct operations in Illinois, Indiana, Michigan, and Ohio.

HEARING: July 17, 1958, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner David Waters.

No. MC 26396 (Sub No. 3) REPUBLICATION, filed April 1, 1957, published page 6306 issue of August 7, 1957. Applicant: STAR TRANSFER COMPANY, a Corporation, 1024 Second Avenue, North Billings, Mont. Applicant's attorney: Joseph F. Meglen, 2822 Third Avenue North, Billings, Mont. The fol-

lowing are excerpts from the Report and Order of the Commission, Division 1, entered in the subject proceeding and served June 18, 1958. By application filed April 1, 1957, Star Transfer Company, a corporation, of Billings, Mont., seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, of liquid chemical fertilizer and fertilizer compound, in bulk, in tank vehicles, and dry fertilizer and dry fertilizer compound, in bags and in packages, in truckload lots, from Pocatello, Idaho, and points within 25 miles thereof, to points in Big Horn, Blaine, Broadwater, Carbon, Cascade, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Liberty, McCone, Meagher, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, and Yellowstone Counties, Mont., over irregular routes. In our opinion a need has been demonstrated for motor carrier service in the transportation of liquid fertilizer and liquid fertilizer compound in bulk, in tank vehicles, from Don only to Shelby, Billings, Hardin, and Hysham, Mont. We also believe that authority should be granted to transport dry fertilizer and dry fertilizer compound, in bags and in packages, from Don to points in Big Horn, Carbon, Fergus, Garfield, Golden Valley, Jefferson, Judith Basin, Musselshell, Petroleum, Rosebud, Sheridan, Stillwater, Sweet Grass, Treasure, Wheatland and Yellowstone Counties, Mont. Applicant contends that the board erred in finding dry bulk fertilizer beyond the scope of the application and in failing to analyze the evidence pertaining to this commodity. The application seeks authority to transport liquid chemical fertilizer and fertilizer compound, in bulk, in tank vehicles, and dry fertilizer and dry fertilizer compound, in bags and in packages, in truckload lots. As seen, a need has been amply demonstrated for the transportation of dry bulk fertilizer, and while we conclude that such authority should be granted, embracing the counties previously enumerated in which dry bulk fertilizer is sold and would be sold if motor common carrier transportation were available, we agree with the board that dry bulk fertilizer is beyond the scope of the application. Opposing carriers which were present at the hearing do not appear to have been prejudiced by the introduction of evidence relating to the need for motor transportation of this commodity, but other members of the public who relied upon notice of the application as published in the FEDERAL REGISTER may have an interest which has been prejudiced by the lack of proper notice. Interested persons are, of course, entitled to rely upon the authenticity and accuracy of matters published in the FEDERAL REGISTER. In the circumstances, authority to transport dry fertilizer in bulk will be granted but the application will be republished in a manner to cover dry fertilizer in bulk and the

Issuance of the certificate granted herein will be withheld until the elapse of 30 days from the date of such republication during which period any proper party in interest may file a protest and petition for further hearing. We find that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, (1) of liquid chemical fertilizer and liquid fertilizer compound, in bulk, in tank vehicles, from Don, Idaho, to Shelby, Billings, Hardin, and Hysham, Mont.; (2) of dry fertilizer and dry fertilizer compound, in bags and in packages, from Don, Idaho, to points in Big Horn, Carbon, Fergus, Garfield, Golden Valley, Jefferson, Judith Basin, Musselshell, Petroleum, Rosebud, Sheridan, Stillwater, Sweet Grass, Treasure, Wheatland, and Yellowstone Counties, Mont.; and (3) of dry fertilizer, in bulk, from Don, Idaho, to points in Sheridan, Daniels, Yellowstone, Stillwater, Big Horn, Wheatland, Golden Valley, Rosebud, Treasure, and Carbon Counties, Mont.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and our rules and regulations thereunder; that an appropriate certificate should be granted after the elapse of 30 days from the date of this republication in the FEDERAL REGISTER of this application as now in effect amended to cover dry fertilizer, in bulk and that in all other respects the application should be denied.

No. MC 28439 (Sub No. 86), filed June 5, 1958. Applicant: DAILY MOTOR EXPRESS, INC., Pitt and Penn Streets, Carlisle, Pa. Applicant's attorney: James E. Wilson, 1111 E Street NW., Washington 4, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors*, except truck tractors, with or without equipment attached thereto, *trailers*, other than those designed to be drawn by passenger automobiles, and *tools, parts and other equipment* designed for use in connection with, and moving in combination loads with tractors, between Burlington, Iowa, and points in the United States and Alaska; and *commodities* named above, when moving as show equipment and displays, returning to Burlington, Iowa, from points in the United States and Alaska. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 29, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner David Waters.

No. MC 28439 (Sub No. 87), filed June 9, 1958. Applicant: DAILY MOTOR EXPRESS, INC., Pitt and Penn Streets, Carlisle, Pa. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors* (not including truck tractors) with or without attachments; *tractor attachments*; and *loading equipment*, between points in Bergen and Passaic Counties, N. J., on the

one hand, and, on the other, points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 31, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Leo A. Riegel.

No. MC 28439 (Sub No. 88), filed June 9, 1958. Applicant: DAILY MOTOR EXPRESS, INC., Pitt and Penn Streets, Carlisle, Pa. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural implements, agricultural machinery, tractors* (other than truck tractors), *incidental machinery attachments and parts*, and *trailers* (other than those designed to be drawn by passenger automobiles), between Racine, Wis., Burlington and Bettendorf, Iowa, Rockford and Rock Island, Ill., and points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Pennsylvania, Maryland, Delaware, New Jersey, New York, Virginia, the District of Columbia, West Virginia, and North Carolina. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 30, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Leo A. Riegel.

No. MC 29886 (Sub No. 117), filed May 21, 1958. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. Applicant's attorney: Charles Pieroni, 523 Johnson Building, Muncie, Ind. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (other than truck tractors) with or without attachments, (2) when moving with such tractors (a) *parts thereof* and (b) *incidental machinery*, and (3) *trailers* designed for the transportation of the tractors described in (1) above, between Churubusco, Ind., on the one hand, and, on the other, points in the United States, except those in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states that it is authorized by Certificate No. MC 29886 (Sub No. 85) to transport crawler tractors, set up, with loading or grading attachments, and parts thereof, when transported in the same vehicle with such commodities, from Churubusco, Ind., to the destinations sought here. Applicant states it has pending before the Commission an application in MC 29886 (Sub No. 114) for authority to operate as a common motor carrier of two wheel trailers designed for the transportation of crawler-type tractors, partly or completely assembled, when transported in the same vehicle with crawler tractors, from Churubusco, Ind., to points in the United States, except those in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, over irregular routes. Applicant states there is only one shipper of the involved commodities

in Churubusco, Ind. Applicant further states it does not desire duplicating authority and that if this application is granted, it will request cancellation of its certificate in No. MC 29886 (Sub No. 85) and of any authority it may receive in its MC 29886 (Sub No. 114).

HEARING: July 28, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner David Waters.

No. MC 29886 (Sub No. 118), filed May 26, 1958. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. Applicant's attorney: Charles Pieroni, 523 Johnson Building, Muncie, Ind. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors*, except truck tractors, with or without equipment attached thereto, *trailers*, other than those designed to be drawn by passenger automobiles, *tools, parts and other equipment* designed for use in connection with moving in combination loads with tractors, between Burlington, Iowa, and points in the United States and Alaska; and *commodities* named above when moving as show equipment and displays, on return to Burlington, Iowa, from points in the United States and Alaska. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 29, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner David Waters.

No. MC 61624 (Sub No. 4) (AMENDMENT), filed April 10, 1958, published issue June 5, 1958. Applicant: KIRBY & KIRBY, INC., 1052 Spruce Street, Trenton, N. J. Applicant's attorney: Robert Watkins, 170 South Broad Street, Trenton, N. J. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *A mixture of corn syrup and inert sugar*, in bulk, in tank vehicles, from Philadelphia, Pa., to Bordentown, N. J., over applicant's authorized regular and alternate routes, serving no intermediate points, but serving junction New Jersey Highway 73 (formerly New Jersey Highway S-41) and U. S. Highway 130 for joinder purposes only. Applicant is authorized to conduct operations in Connecticut, Delaware, New Jersey, New York, Pennsylvania, and West Virginia.

NOTE: Previous publication referred to the commodity as "A mixture of 25 percent corn syrup and 75 percent invert sugar". The supporting shipper now advises that this percentage may vary according to the commodity being processed.

HEARING: Remains as assigned July 15, 1958, at the Penn Sherwood Hotel, 3900 Chestnut Street, Philadelphia, Pa., before Examiner Isadore Freidson.

No. MC 64932 (Sub No. 242), filed May 22, 1958. Applicant: ROGERS CARTAGE CO., a Corporation, 1934 South Wentworth Avenue, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Spent muriatic acid*, in bulk, in tank vehicles, from Niles, Mich., to Chicago, Ill. Applicant is au-

thorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin.

HEARING: July 23, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 73 or, if the Joint Board waives its right to participate, before Examiner David Waters.

No. MC 67916 (Sub No. 3) (CLARIFICATION), published at Page 4129 issue of June 11, 1958, FEDERAL REGISTER, PETITION dated April 24, 1958, FOR REOPENING RECONSIDERATION AND MODIFICATION OF ORDERS DATED MAY 18, 1948 and JULY 31, 1951, THE NEW YORK CENTRAL RAILROAD COMPANY (COMMON CARRIER APPLICATION) 466 Lexington Avenue, New York, N. Y. Petitioner's attorneys: Herbert Burstein and Kenneth H. Lundmark, 466 Lexington Avenue, New York 17, N. Y. That portion of the above referred-to publication, as set forth in applicant's petition, and appearing on Page 4130, namely, "wherefore petitioner seeks reopening and modification of the aforesaid orders so as to enable it to provide substituted-motor-for-rail service from any restrictive key-point conditions at Anderson, Lafayette, Greensburg and Terre Haute, Ind.", is clarified and interpreted to mean: "wherefore, petitioner seeks reopening and modification of the aforesaid orders so as to enable it to provide substituted-motor-for-rail service free from any restrictive key-point conditions at Anderson, Lafayette, Greensburg, and Terre Haute, Ind." (Italicizing provided.)

No. MC 76177 (Sub No. 264), filed June 6, 1958. Applicant: BAGGETT TRANSPORTATION COMPANY, a Corporation, 2 South 32d Street, Birmingham, Ala. Applicant's attorney: Harold G. Hernly, 1624 Eye Street NW., Washington 6, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Methyl vinyl pyridine*, in bulk, in tank vehicles, between Pace, Fla., and Pasadena (Houston), Tex. Applicant is authorized to conduct regular route operations in Alabama and Georgia, and irregular route operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

NOTE: Applicant holds contract carrier authority in Permit No. MC 89778 and subs thereunder. Common control, and Section 210, dual operations, may be involved.

HEARING: July 25, 1958, at the Offices of the Interstate Commerce Commission,

Washington, D. C., before Examiner Leo A. Riegel.

No. MC 83539 (Sub No. 33), filed June 3, 1958. Applicant: C & H TRANSPORTATION CO., INC., 1935 Commerce Street, P. O. Box 5976, Dallas, Tex. Applicant's attorney: W. T. Brunson, Leonhardt Building, Oklahoma City 2, Okla. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *road building and/or earth moving equipment*, (2) *lumber and mining machinery and equipment*, (3) *tractors* (other than conventional truck tractors designed for highway operations), with loading, excavation and lifting attachments, (4) *commodities*, the loading, unloading or transportation of which, because of size, weight or shape require use of special equipment, special rigging, special handling or special attachments, and (5) *parts of commodities* described in (1) through (4) above, between New Philadelphia, Ohio, and points in the commercial zone of New Philadelphia, Ohio, on the one hand, and, on the other, points in the United States and Alaska. Applicant is authorized to conduct operations in Kansas, New Mexico, Texas, Oklahoma, Louisiana, Illinois, Indiana, Kentucky, Mississippi, Arkansas Wisconsin, North Dakota, South Dakota, Missouri, Nebraska, Colorado, Nevada, Pennsylvania, Montana, Tennessee, Ohio, Minnesota, Michigan, New Jersey, New York, Wyoming, and Utah.

HEARING: August 1, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner William A. Tyers.

No. MC 89975 (Sub No. 1), filed June 10, 1958. Applicant: MARTIN LUTHER REHMEYER, Hungerford, Pa. Applicant's attorney: Christian V. Graf, 11 North Front Street, Harrisburg, Pa. Authority sought to operate as a contract carrier, by motor vehicle, over regular routes, transporting: (1) *Empty tin cans*, on pallets, from Baltimore, Md., to Hungerford, Pa., over U. S. Highway 111, serving no intermediate points; and (2) *Empty boxes, boxes on wheels, and empty pallets*, from Hungerford, Pa., to Baltimore, Md., over U. S. Highway 111, serving no intermediate points. Application is authorized to conduct operations in Maryland, Pennsylvania, and the District of Columbia.

NOTE: Applicant is authorized to transport Empty tin cans, in cartons and boxes, over the route described in (1) above.

HEARING: July 29, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Leo A. Riegel.

No. MC 92983 (Sub No. 293), filed June 6, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Caustic soda and caustic potash*, in bulk, in tank vehicles, from points in Marshall County, Ky., to points in Arkansas, Illinois, Indiana, Kentucky, Missouri, Tennessee, and Ohio. Applicant is authorized to conduct operations in Illinois, Nebraska, Iowa, Wisconsin, Missouri, In-

diana, Kansas, Minnesota, Arkansas, Ohio, Kentucky, North Carolina, South Carolina, Florida, Louisiana, Tennessee, Michigan, Texas, New York, South Dakota, Pennsylvania, Connecticut, Massachusetts, Georgia, Mississippi, Alabama, and Oklahoma.

HEARING: July 17, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner William R. Tyers.

No. MC 92983 (Sub No. 294), filed June 16, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Acids and chemicals*, from Groton, Conn., to points in Illinois, Indiana, Iowa, and Missouri. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: July 18, 1958, at the Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Leo W. Cunningham.

No. MC 92983 (Sub No. 295), filed June 16, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fats and oils* (other than petroleum and petroleum products), between points in Indiana, Kansas, Kentucky, Missouri, and Tennessee. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: August 1, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner David Waters.

No. MC 109689 (Sub No. 43) and MC 109689 (Sub No. 44), REPUBLICATIONS filed January 18, 1957, published page 914, issue of February 13, 1957. Applicant: W. S. HATCH CO., a corporation, 643 South 100 West, Woods Cross, Utah. Applicant's attorneys: Marr, Wilkins, Cannon and Boyle, Continental Bank Building, Salt Lake City, Utah. The following are excerpts from the Report and Order of the Commission, Division 1, entered in the subject proceeding and served June 18, 1958. These applications were separately heard and were the subject of separate reports and recommended orders by the examiner. Since they involve related issues, they will be disposed of here in a single report. By applications filed January 18, 1957, and January 22, 1957, respectively, as amended, W. S. Hatch Co., a corporation of Woods Cross, Utah, seeks certificate

of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of fertilizer solutions, and of acids and chemicals, in bulk, in tank vehicles except those petroleum chemicals listed in appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M. C. C. 209, as follows: from Pocatello, Idaho, and points within 25 miles thereof, to points in Montana, Wyoming, Colorado, Utah, and Nevada in the title proceeding; and from points in Wyoming to points in Colorado, Utah, and Idaho in the sub-title proceeding. The consignee supporting the portion of the recommended authority in the sub-title proceeding to which exceptions are taken plans to purchase from 5,000 to 8,000 tons of dry or molten sulphur yearly for transportation from Worland, Powell, Neiber, and Manderson, Wyo. (points in Washakie, Big Horn, and Park Counties, Wyo.) to a plant at Mexican Hat, San Juan County, Utah, which was expected to be complete before September 1957, for use in the manufacture of sulphuric acid. It will require about a truckload of sulphur every two days, and whether the sulphur to be used is dry or molten will depend partially upon its supplier but primarily upon its own needs. In this respect, it is more than likely that consignee will require molten sulphur as there is a greater possibility of loss in the handling of dry sulphur. It has been advised that the Wyoming sulphur in question is a by-product in the purification of petroleum. While we are of the opinion that a need for motor transportation of sulphur has been clearly established, we are unable to determine on the basis of the present record whether or not sulphur is a petroleum product or one of the commodities—fertilizer solutions, acids, or chemicals—listed in the application. Rather than seek specific authority to transport sulphur, applicant chose to describe the commodities it seeks authority to transport in terms which may or may not include sulphur. Opposing carriers which were present at the hearing do not appear to have been prejudiced by the introduction of evidence relating to the need for motor transportation of sulphur, but other members of the public who relied upon notice of the application as published in the FEDERAL REGISTER may have an interest which has been prejudiced by the lack of proper notice. Interested persons are, of course, entitled to rely upon the authenticity and accuracy of matters published in the FEDERAL REGISTER. In the circumstances, we shall republish in the FEDERAL REGISTER a statement of this application showing that sulphur covered thereby and shall withhold the issuance of a certificate herein until the elapse of 30 days from the date of such republication, during which period any proper party in interest may file a petition for further hearing. We find the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, in No. MC-109689 (Sub No. 43), of fertilizer solutions and phos-

phoric acid, in bulk, in tank vehicles, from Don, Idaho, to Hysham, Mont., and, in No. MC-109689 (Sub No. 44), (1) of sulphur, in bulk, in tank vehicles, from points in Big Horn, Washakie, and Park counties, Wyo., to points in San Juan County, Utah, and (2) of soda ash, in bulk, in tank vehicles, from Westvaco, Sweetwater County, Wyo., (a) to points in Salt Lake and Wasatch Counties, Utah, (b) to points in Power, Shoshone, and Bonneville Counties, Idaho, and (c) to points in Lake, Garfield, La Plata, and Montrose Counties, Colo. We further find that applicant is fit, willing, and able properly to perform the service described in the preceding findings and to conform to the requirements of the Interstate Commerce Act and our rules and regulations thereunder; that an appropriate certificate in No. MC-109689 (Sub No. 43) should be issued; that an appropriate certificate in No. MC-109689 (Sub No. 44) should be issued after the elapse of 30 days from the date of this republication in the FEDERAL REGISTER of this application, and that the application in all other respects should be denied.

NOTE: This republication, and the delay as to the issuance of a certificate pertains only to the proceeding in No. MC 109689 (Sub No. 44).

No. MC 113861 (Sub No. 18), filed May 9, 1958. Applicant: W. H. WOOTEN AND J. H. PARKER, doing business as W. H. WOOTEN TRANSPORTS, 153 Gaston Avenue, Memphis 6, Tenn. Applicant's attorney: Louis I. Dailey, Sterick Building, Memphis, Tenn. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as defined in Appendix XIII of Descriptions in Motor Carrier Certificates, 61 M. C. C. 209, in bulk, in tank vehicles, from East St. Louis, Ill., and points in Illinois within 15 miles thereof to points in Tennessee on and west of U. S. Highways 31 and 31-W, those in Mississippi on and north of U. S. Highway 80, and those in Arkansas on and east of U. S. Highway 167 from the Louisiana-Arkansas State line to Little Rock, and on and east of U. S. Highway 65 from Little Rock to the Arkansas-Missouri State line, including Little Rock and points within 10 miles thereof. Applicant is authorized to conduct operations in Arkansas, Kentucky, Tennessee, Mississippi, Alabama, Missouri, Illinois, Iowa, and Indiana.

HEARING: July 21, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Examiner Herbert L. Hanback.

No. MC 114019 (Sub No. 19), filed June 18, 1958. Applicant: THE EMERY TRANSPORTATION COMPANY, 7000 South Pulaski Road, Chicago 29, Ill. Applicant's attorney: Charles F. Riddle, 1825 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Equipment, materials and supplies* used in the manufacture of foodstuffs, from points in Illinois to points in Adams County, Pa., and those in Monroe, Orleans, and Wayne Counties, N. Y. Applicant is authorized to conduct contract carrier operations under Permit No. MC 9685

and sub-numbers thereunder in Tennessee, Ohio, Indiana, Kentucky, Pennsylvania, Wisconsin, New York, Michigan, Missouri, Iowa, West Virginia, Virginia, Maryland, Massachusetts, Minnesota, New Jersey, and the District of Columbia.

NOTE: A proceeding has been instituted under section 212 (e) in MC 9685 (Sub No. 58), to determine whether applicant's status is that of a contract or common carrier.

HEARING: July 15, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Lawrence A. Van Dyke.

No. MC 116459 (Sub No. 3), filed May 12, 1958. Applicant: ASPHALT HAULERS, INC., Airport Road, P. O. Box 8292, Chattanooga 11, Tenn. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis 3, Tenn. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: In bulk, in tank vehicles, (1) *asphalt and asphalt products*, from Knoxville, Tenn., and points within 20 miles thereof, to points in Kentucky, Virginia, North Carolina, South Carolina, Georgia, and Alabama, (2) *residual fuel oils*, from points in Hamilton and Knox Counties, Tenn., to points in Kentucky, Virginia, North Carolina, South Carolina, Georgia, and Alabama, and empty containers or other such incidental facilities (not specified) used in transporting the above-specified commodities on return. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee.

HEARING: July 14, 1958, at the Kentucky Hotel, Louisville, Ky., before Examiner Mack Myers.

No. MC 117392 (Sub No. 1), filed May 16, 1958. Applicant: FRANK W. EDMANDS, INC., 16 Woodbury Avenue, Saugus, Mass. Applicant's attorney: Mary E. Kelley, 10 Tremont Street, Boston 8, Mass. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, in dump vehicles, from Cambridge, Mass., to Middlebury, Vt. Applicant holds contract carrier authority in Permit No. MC 89726. Section 210, dual operations, may be involved.

HEARING: July 25, 1958, at the New Post Office and Court House Building, Boston, Mass., before Joint Board No. 189, or, if the Joint Board waives its right to participate, before Examiner Michael B. Driscoll.

MOTOR CARRIERS OF PASSENGERS

No. MC 1510 (Sub No. 60), filed June 12, 1958. Applicant: SOUTHWESTERN GREYHOUND LINES, INC., 210 East Ninth Street, Fort Worth, Tex. Applicant's attorney: William M. Brown, 1210 Electric Building, Fort Worth, Tex. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Passengers, newspapers, express, mail and/or baggage of passengers* in the same vehicle with passengers, (1) **EXTEND OPERATIONS:** between Tulsa, Okla., and Okmulgee, Okla., from Tulsa over U. S. Highway 169 to junction Oklahoma Highways 67 and 138 at or near Glenpool, Okla., thence over Oklahoma Highway 138 to junction

with new Highway near Preston, Okla. (to be designated U. S. Highway 75), and thence over said relocated Highway 75 to Okmulgee, and return over the same route, serving no intermediate or off-route points, (2) DISCONTINUE OPERATIONS: between Sapulpa, Okla., and Preston, Okla., over U. S. Highway 75, a portion of its regular route authorized in No. MC 1510 between Sapulpa, Okla., and Dallas, Tex., serving all intermediate points.

NOTE: The discontinuance of route No. (2) above is contingent upon the granting of Route No. 1 above. Applicant is authorized to conduct operations in Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, Tennessee, and Texas.

HEARING: July 28, 1958, at the Mayo Hotel, Tulsa, Okla., before Joint Board No. 88.

APPLICATIONS IN WHICH HANDLING WITH-OUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 28892 (Sub No. 2), filed June 13, 1958. Applicant: J. D. POTEET AND V. D. POTEET, a partnership, doing business as POTEET TRANSFER CO., Morrilton, Ark. Applicant's attorney: Louis Tarlowski, Rector Building, Little Rock, Ark. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, between Morrilton, Ark., and Little Rock, Ark. over U. S. Highways 64 and 65; and household goods, cotton, used farm equipment and farm products, over U. S. Highway 67 from Arkansas-Texas Line to Arkansas-Missouri Line; U. S. Highway 70 from Little Rock to Arkansas-Tennessee Line; U. S. Highway 65 from Arkansas-Louisiana Line to Arkansas-Missouri Line; U. S. Highway 64 from Conway to Russellville, Ark.; State Highways 7 and 22 from Russellville to Fort Smith, Ark.; U. S. Highway 71 from Fort Smith to Arkansas-Missouri Line; U. S. Highway 167-Little Rock to Arkansas-Louisiana Line; State Highway 115 from Thornton to El Dorado, Ark.; State Highway 3 from Camden to Magnolia, Ark., serving all points.

NOTE: Applicant seeks a Certificate of Public Convenience and Necessity in lieu of, and authorizing continuance of, interstate operations conducted under the Second Proviso of section 206 (a) (1) of the Interstate Commerce Act, Docket No. MC 28892 (Sub No. 1), supported by Arkansas Corporation Commission intrastate certificate on file with this Commission. Applicant states if and when a Certificate of Public Convenience and Necessity is granted to it, it is agreeable to the cancellation of its proviso filing in Docket No. MC 28892 (Sub 1). Applicant presently holds no authority from this Commission.

No. MC 39976 (Sub No. 8), filed June 9, 1958. Applicant: RAYMOND D. GIBBS, doing business as DAN GIBBS AND SON, 409 Beach Lane Drive NW., New Philadelphia, Pa. Applicant's representative: G. H. Dilla, 3350 Superior Avenue, Cleveland 14, Ohio. Authority sought to operate as a common or contract carrier, by motor vehicle, over irregular routes, transporting: Clay products, such as brick, sewer pipe, coping, and related products, from points in

Tuscarawas County, Ohio, and Palmyra, in Portage County, Ohio, to points in the upper peninsula of Michigan, and damaged, defective, refused or rejected clay products, and empty returned pallets, and empty containers or other such incidental facilities (not specified) used in transporting clay products on return. Applicant in Permits No. MC 39976 (Sub No. 1) and (Sub No. 3), is authorized to transport similar commodities in Illinois, Indiana, the lower peninsula of Michigan, Ohio, Pennsylvania, and West Virginia.

NOTE: A proceeding has been instituted under section 212 (c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 39976 (Sub No. 7).

No. MC 42487 (Sub No. 369), filed June 9, 1958. Applicant: CONSOLIDATED FREIGHTWAYS, INC., 2116 Northwest Savier Street, Portland, Oreg. Applicant's attorneys: Donald A. Schafer, Public Service Building, Portland 4, Oreg., and Ron E. Poelman, 431 Burgess Drive, Menlo Park, Calif. Authority sought to operate as a common carrier, by motor vehicle, over a regular route, transporting: General commodities, except those of unusual value, liquid petroleum products, in bulk, in tank vehicles, Class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Vantage, Wash., and Eltopia, Wash., from Vantage over Washington Highway 7-C to junction Washington Highway 11-G, thence over Washington Highway 11-G to Eltopia, and return over the same route, serving intermediate and off-route points presently authorized applicant in Certificate No. MC 42487 (Sub No. 163) which specifies, for general commodities with the above exceptions, that service is authorized to and from points in Grant, Lincoln, Franklin, Adams, and Benton Counties, Wash., as intermediate and off-route points in connection with carrier's authorized regular route operations. Applicant is authorized to conduct operations in Arizona, California, Idaho, Illinois, Indiana, Iowa, Michigan, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

NOTE: Applicant states, under its Certificate No. MC 42487 (Sub No. 163) it is already authorized to serve all points on the requested route, and that the requested route is for use as a connecting route between applicant's regular routes over U. S. Highway 10 between Seattle and Spokane, Wash., and U. S. Highway 395 between Pasco and Spokane, Wash.

No. MC 66562 (Sub No. 1424), filed June 3, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: William H. Marx, Law Department, Railway Express Agency, Incorporated, 219 East 42d Street, New York 17, N. Y. Authority sought to operate as a common carrier, by motor vehicle, over a regular route, transporting: General commodities, including Class A and B explosives, moving

in express service, between Portland, Maine, and Lewiston, Maine, from Portland over Maine Highway 100 to junction U. S. Highway 202, thence over U. S. Highway 202 to Lewiston, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states the proposed route will be an extension of applicant's existing operation under Certificate in No. MC 66562 (Sub No. 1371).

No. MC 66562 (Sub No. 1425), filed June 3, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: William H. Marx, Law Department, Railway Express Agency, Incorporated, same address as applicant. Authority sought to operate as a common carrier, by motor vehicle, over a regular route, transporting: General commodities, including Class A and B explosives, moving in express service, between Boston, Mass., and Lawrence, Mass., from Boston over city streets to Cambridge, Mass., thence over U. S. Highway 1 to junction Massachusetts Highway 28, thence over Massachusetts Highway 28 to Lawrence, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations throughout the United States.

No. MC 86687 (Sub No. 48), filed June 16, 1958. Applicant: SEABOARD AIR LINE RAILROAD COMPANY, Seaboard Air Line Railroad Building, Norfolk 10, Va. Applicant's attorney: Richard A. Hollander, same address as applicant. Authority sought to operate as a common carrier, by motor vehicle, over a regular route, transporting: General commodities, including Class A and B explosives, between Savannah, Ga., and Omaha, Ga., from Savannah over U. S. Highway 80 to junction U. S. Highway 280, thence over U. S. Highway 280 to junction Georgia Highway 23 at Reidsville, Ga. (also from junction U. S. Highway 280 and Georgia Highway 292 near Collins, Ga., thence over Georgia Highway 23 to junction U. S. Highway 280 at Reidsville, Ga.) thence over U. S. Highway 280 to Richland, Ga., thence over Georgia Highway 27 to Lumpkin, Ga., thence over U. S. Highway 27 to Louvale, Ga., and thence over unnumbered highway to Omaha, and return over the same route, serving all intermediate points which are stations on the rail line of the Seaboard Air Line Railroad Company and the off-route points of Ellabelle, Manassas, Collins, Ochopee, and Helena, Ga. Applicant is authorized to conduct operations in North Carolina, Florida, South Carolina, Virginia, and Georgia.

NOTE: Applicant states that it presently is authorized at Sheet 4 of its certificate in No. MC 86687 (Sub No. 37) to operate as a motor service over the route which is the subject of this application. The purpose of this proceeding is to broaden the list of commodities which may be carried over that route.

No. MC 107128 (Sub No. 15), filed June 11, 1958. Applicant: FAST

FREIGHT, INC., 2612 West Morris Street, Indianapolis 21, Ind. Applicant's attorney: Wilhelmina Boersma, 2850 Penobscot Building, Detroit 26, Mich. Authority sought to operate as a common or contract carrier, by motor vehicle, over irregular routes, transporting: *Empty pallets*, from points in Wisconsin and Cincinnati, Ohio, to Dunkirk, Ind. Applicant is authorized to conduct operations in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin.

NOTE: A proceeding has been instituted under section 212 (c) to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 107128 (Sub No. 10).

No. MC 108461 (Sub No. 68), filed June 9, 1958. Applicant: **WHITFIELD TRANSPORTATION, INC.,** 240 West Amador, Las Cruces, N. Mex. Applicant's representative: J. P. Rose, P. O. Box 5345, El Paso, Tex. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cement and admixes*, in bulk, in hopper-type vehicles, from El Paso, Tex., to Cortez, Colo. Applicant is authorized to conduct operations in Texas, New Mexico, Utah, Colorado, Arizona, and California.

No. MC 108727 (Sub No. 2), filed June 9, 1958. Applicant: **FRED C. ROTH,** 6615 Orchard Avenue, Parma, Ohio. Applicant's representative: G. H. Dilla, 3350 Superior Avenue, Cleveland 14, Ohio. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fibre-board drums*, from Wyandotte, Mich., to points in Ohio and Indiana; and *empty containers or other such incidental facilities* used in transporting the commodities specified, on return. Applicant is authorized to transport empty wooden barrels and kegs and steel and plywood drums from Toledo, Ohio, to Erie, Pa., Ligonier, Ind. and points in the lower peninsula of Michigan, and cooperage stock between Toledo, Ohio and Wyandotte, Mich.

NOTE: A proceeding has been instituted under section 212 (c), No. MC 108727 Sub No. 1, to determine whether applicant's status is that of a contract or common carrier.

No. MC 116111 (Sub No. 4), filed June 9, 1958. Applicant: **CHARLES S. REAVIS,** doing business as **NORTH KANSAS CITY TOW SERVICE,** 1042 Fayette, North Kansas City, Mo. Applicant's attorney: William Harrison Norton, 205 Pioneer Building, Armour at Swift, North Kansas City, Mo. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, or repossessed motor vehicles*, by use of wrecker equipment only, and *replacement vehicles for wrecked or disabled motor vehicles*, in secondary movements, in truckaway service, between points in the Kansas City, Mo.-Kansas City, Kans., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in Arkansas and Illinois. Applicant is authorized to con-

duct operations in Iowa, Kansas, Missouri, Nebraska, and Oklahoma.

No. MC 117401, filed May 19, 1958. Applicant: **HANSEN BROS. ELEVATOR CO.,** a Corporation, 104 East Railroad Street, Storm Lake, Iowa. Applicant's attorney: E. A. Hutchison, 420 Security Bank Building, Sioux City 1, Iowa. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Pebble lime*, in bulk, from the site of The Cutler-Magner Company's lime manufacturing plants at Duluth, Minn., and/or Superior, Wis., to points in Iowa, Nebraska, and South Dakota, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities on return.

No. MC 117448, filed June 12, 1958. Applicant: **WARREN C. SCOTT, R. D. No. 1,** Sinclairville, N. Y. Applicant's attorney: Kenneth T. Johnson, Bank of Jamestown Building, Jamestown, N. Y.

Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Rough lumber*, (1) from points in Chautauqua, Cattaraugus, and Niagara Counties, N. Y., to Union City, Warren, York, Reading, Erie, Pittsburgh, and Philadelphia, Pa., Alliance, Cleveland, and Akron, Ohio, and Detroit, Mich.; and (2) from points in Cameron, Potter, and Clarion Counties, Pa., to ports of entry on the boundary between the United States and Canada at Buffalo and Niagara Falls, N. Y., Alliance, Cleveland, and Akron, Ohio, and Detroit, Mich.

MOTOR CARRIERS OF PASSENGERS

No. MC 1501 (Sub No. 148) (CORRECTION), filed May 20, 1958, published issue June 5, 1958, at page 3959. Applicant: **THE GREYHOUND CORPORATION,** 5600 Jarvis Avenue, Chicago 31, Ill. Applicant's attorney: Earl A. Bagby, Market and Fremont Streets, San Francisco 5, Calif. In connection Route 1.3, lines 3 and 4 stating "proposed route has not been applied for." This phrase was in error, and should be disregarded.

PETITION

No. MC 37975, PETITION FOR REINSTATEMENT OF CERTIFICATE, dated June 11, 1958. Petitioner: **ROBERT A. SMITH,** Pocomoke City, Md. Petitioner's representative: W. J. Vaughan, Olney, Md. Robert A. Smith, petitioner, was granted a Certificate of Public Convenience and Necessity dated February 16, 1950 authorizing operations as a common carrier over regular and irregular routes, transporting specified commodities from, to and between specified points in Maryland, Pennsylvania, New York, Delaware, Virginia, the District of Columbia, New Jersey, Rhode Island, Massachusetts, and Connecticut. By order of this Commission dated April 13, 1955, the said Certificate was revoked. Petitioner states that on, before, and after the date his certificate was revoked, he was physically unable to render a continuous operation and he was incapable of conducting his affairs for a long period of time. Wherefore, petitioner prays, that in the light of his inability to oper-

ate, the Commission restore his certificate to an active status.

APPLICATIONS UNDER 212 (c) CONVERSION PROCEEDINGS

No. MC 427 (Sub No. 2). Respondent: **GEORGE NEDDERSEN,** doing business as **NEDDERSEN TRANSIT,** North Minneapolis, Minn. The above-numbered proceeding was instituted on the Commission's own initiative, on February 17, 1958, to determine the carrier's status pertaining to the contract carrier authority issued on or before August 22, 1957. It has now been determined that the carrier's operations are those of a contract carrier and an order which becomes effective July 21, 1958, will discontinue the proceeding.

No. MC 3368 (Sub No. 6). Applicant: **R. F. HALE,** doing business as **HALE TRANSFER & STORAGE,** Oskaloosa, Iowa. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 19, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 14458 (Sub No. 2). Applicant: **JAMES L. KEENAN,** doing business as **KEENAN BROTHERS,** Steubenville, Ohio. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 16, 1958, the carrier requested dismissal of the application, and an order was entered on June 3, 1958, effective July 15, 1958, dismissing the application and discontinuing the proceeding.

No. MC 16503 (Sub No. 5). Applicant: **JOHN L. GUEX,** Shawano, Wis. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 17, 1958, the carrier requested dismissal of the application, and an order was entered on June 3, 1958, effective July 15, 1958, dismissing the application and discontinuing the proceeding.

No. MC 18267 (Sub No. 7). Applicant: **TEXAS-LOUISIANA EXPRESS, INC.,** Fort Worth, Tex. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 13, 1958, the carrier requested dismissal of the application, and an order was entered June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 23299 (Sub No. 1). Applicant: **PACKAGE DELIVERY COMPANY, INC.,** Sioux Falls, S. Dak. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 21, 1958, the

carrier requested dismissal of the application, and an order was entered on June 3, 1958, effective July 15, 1958, dismissing the application and discontinuing the proceeding.

No. MC 28294 (Sub No. 1). Applicant: ERNEST MORIN, Claremont, N. H. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 30, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 41133 (Sub No. 1). Applicant: KEITH FULTON & SONS, INC., Cambridge, Mass. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 8, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 55555 (Sub No. 1). Applicant: FRANK FERRARO, doing business as FRANK FERRARO TRUCKING CO., Paterson, N. J. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 2, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 75566 (Sub No. 4). Applicant: SHERIDAN & DUNCAN, INC., New York, N. Y. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 1, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 101362 (Sub No. 1). Applicant: GUS FRASK, EDWARD J. RZONCA AND WALTER VOYTUS, doing business as G. E. & W. TRUCKING CO., Woodside, L. I., N. Y. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 1, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 103085 (Sub No. 2). Applicant: THOMAS H. COLLINGS, doing business as WESTERLY AUTO TRUCKING SERVICE, Westerly, R. I. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on

or before August 22, 1957. On April 19, 1958, the carrier requested dismissal of the application, and an order was entered on June 3, 1958, effective July 15, 1958, dismissing the application and discontinuing the proceeding.

No. MC 108504 (Sub No. 1). Applicant: CARL H. SCHAFFER, Payson, Ill. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 28, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 108727 (Sub No. 1). Applicant: FRED C. ROTH, Parma, Ohio. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 21, 1958, the carrier requested dismissal of the application, and an order was entered on June 3, 1958, effective July 15, 1958, dismissing the application and discontinuing the proceeding.

No. MC 108732 (Sub No. 6). Respondent: DAVID KRAFT, doing business as KRAFT MOTOR TRANSPORTATION, Harrison, N. J. The above-numbered proceeding was instituted on the Commission's own initiative, on February 17, 1958, to determine the carrier's status pertaining to the contract carrier authority issued on or before August 22, 1957. It has now been determined that the carrier's operations are those of a contract carrier and an order which becomes effective July 21, 1958, will discontinue the proceeding.

No. MC 109470 (Sub No. 2). Applicant: JOSEPH A. CONRAD, doing business as CONRAD TRANSFER COMPANY, Terre Haute, Ind. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 17, 1958, the carrier requested dismissal of the application, and an order was entered on June 3, 1958, effective July 15, 1958, dismissing the application and discontinuing the proceeding.

No. MC 109890 (Sub No. 1). Applicant: HARRY SMOLOWITZ AND MORRIS SMOLOWITZ, doing business as SMOLOWITZ BROS., Brooklyn, N. Y. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 30, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 110468 (Sub No. 2). Applicant: JOSEPH HERR, doing business as HERR TRUCKING COMPANY, Fremont, Ohio. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On

April 16, 1958, the carrier requested dismissal of the application, and an order was entered on June 3, 1958, effective July 15, 1958, dismissing the application and discontinuing the proceeding.

No. MC 110760 (Sub No. 3). Applicant: DAVIS LAMBERT, doing business as LAMBERT & HOOD, Mt. Carmel, Ill. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 10, 1958, the carrier requested dismissal of the application, and an order was entered on June 3, 1958, effective July 15, 1958, dismissing the application and discontinuing the proceeding.

No. MC 114545 (Sub No. 1). Applicant: HARRY HAYDEN, Beach, N. D. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 5, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 115668 (Sub No. 1). Applicant: WARREN G. HARDING, Kendallville, Ind. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On May 7, 1958, the carrier requested dismissal of the application, and an order was entered on June 4, 1958, effective July 21, 1958, dismissing the application and discontinuing the proceeding.

No. MC 116127 (Sub No. 2). Applicant: GEORGE D. CYRUS, INC., Iola, Kans. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 17, 1958, the carrier requested dismissal of the application, and an order was entered on June 3, 1958, effective July 15, 1958, dismissing the application and discontinuing the proceeding.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5, GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

MOTOR CARRIERS OF PROPERTY

No. MC 54430 (Sub No. 8), filed June 13, 1958. Applicant: MARCELL'S MOTOR EXPRESS, INC., 947 Shelburne Road, South Burlington, Vt. Applicant's attorney: Drew L. Carrway, Suite 618, Perpetual Building, 1111 E Street NW., Washington 4, D. C. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, 1. From White River Junction, Vt., over U. S. Highway 4 to Rutland, Vt., and return. 1. (a) from White River Junction over U. S. Highway 4 to Fair Haven, Vt.,

thence over Vermont Highway 22A to junction Vermont Highway 237 or junction Vermont Highway 140, thence over Vermont Highway 273 or Vermont Highway 140 to Poultney, Vt., thence over Vermont Highway 30 to Manchester Center, Vt., thence over U. S. Highway 7 to Bennington, Vt., and return over U. S. Highway 7 from Bennington, Vt., to Rutland, Vt., thence over U. S. Highway 4 to White River Junction, Vt. 2. From White River Junction, Vt., over Vermont Highway 14 to junction with U. S. Highway 302, thence over U. S. Highway 302 to Montpelier, Vt., and return (also from Montpelier over Vermont Highway 12 to junction with Vermont Highway 107, thence over Vermont Highway 107 to junction with Vermont Highway 14; also from Montpelier over Vermont Highway 12 to junction with Vermont Highway 12A, thence over Vermont Highway 12A via Roxbury to junction with Vermont Highway 12; also from Montpelier over U. S. Highway 302 to East Barre, thence over Vermont Highway 110 to junction with Vermont Highway 14 at South Royalton, Vt.) 2. (a) from White River Junction, Vt., over Vermont Highway 14 to junction with U. S. Highway 302, thence over U. S. Highway 302 to junction with U. S. Highway 2, thence over U. S. Highway 2 to Middlesex, Vt., thence over Vermont Highway 100 to Warren, Vt., thence from Warren, Vt., over Vermont Highway 100 to junction with Vermont Highway 100B, thence over Vermont Highway 100B to Waterbury, Vt., thence over Vermont Highway 100 to North Hyde Park, Vt., thence over Vermont Highway 100C to Johnson, Vt., thence over Vermont Highway 15 to Cambridge, Vt., thence over Vermont Highway 104 to Fairfax, Vt., and return. 2. (b) From Fairfax, Vt., over Vermont Highway 104 to junction with Vermont Highway 15, thence over Vermont Highway 15 to Jeffersonville, Vt., thence over Vermont Highway 108 to Enosburg Falls, Vt., thence over Vermont Highway 105 to East Richford, Vt., and return. 2. (c) from East Berkshire, Vt., over Vermont Highway 118 to Montgomery Center, Vt., and return. 2. (d) from East Richford, Vt., over Vermont Highway 105 to St. Albans, Vt., and return. (Also, from junction Vermont Highway 105 with Vermont Highway 120, over Vermont Highway 120 to Franklin, Vt., thence over Vermont Highway 104B to Swanton, Vt., thence over U. S. Highway 7 to St. Albans, Vt., and return.) 2. (e) from St. Albans, Vt., over U. S. Highway 7 to Burlington, Vt., thence over Vermont Highway 15 to Essex Junction, Vt., thence over Vermont Highway 2A to junction with U. S. Highway 2, thence over U. S. Highway 2 to junction with U. S. Highway 302, thence over U. S. Highway 302 to junction with Vermont Highway 14, thence over Vermont Highway 14 to White River Junction, Vt., and return. 2. (f) from White River Junction, Vt., over Vermont Highway 14 to junction with U. S. Highway 302, thence over U. S. Highway 302 to junction U. S. Highway 2, thence over U. S. Highway 2 to Burlington, Vt., thence over U. S. Highway 7 to Rutland, Vt., thence over U. S. Highway 4 to White

River Junction, Vt. 2. (g) from White River Junction, Vt., over Vermont Highway 14 to East Montpelier, Vt., thence over Vermont Highway 12 to Hardwick, Vt. (also from Hardwick, Vt., over Vermont Highway 15 to Wolcott, Vt., and return, and also from Hardwick, Vt., over Vermont Highway 12B to Craftsbury, Vt., and return), thence from Hardwick, Vt., over Vermont Highway 15 to West Danville, Vt. (also from Hardwick, Vt., over Vermont Highway 15 to junction with Vermont Highway 12 thence over Vermont Highway 12 to Greensboro Bend, Vt., and return), thence from West Danville, Vt., over U. S. Highway 2 to East Montpelier, Vt. (also from junction of U. S. Highway 2 and unnumbered highway at or near Marshfield, Vt., thence over unnumbered highway to Cabot, Vt., and return), thence from East Montpelier, Vt., over Vermont Highway 14 to White River Junction, Vt. 2. (h) from Montpelier, Vt., over U. S. Highway 2 to St. Johnsbury, Vt., thence over U. S. Highway 5 to Derby, Vt. (also, from Derby, Vt., over U. S. Highway 5 to Derby Line, Vt., and return), thence over Vermont Highway 105 to Bloomfield, Vt., thence over Vermont Highway 102 to Canaan, Vt., and return. (Also, return over Vermont Highway 102 to junction with U. S. Highway 2, thence over U. S. Highway 2 to St. Johnsbury, Vt.) (Also, from St. Johnsbury, Vt., over U. S. Highway 5 to White River Junction, Vt., and return.) Also, from Newport, Vt., over Vermont Highway 105 to North Troy, Vt., and return.) 2. (i) from White River Junction, Vt., over Vermont Highway 14 to junction with Vermont Highway 107, thence over Vermont Highway 107 to junction with Vermont Highway 100, thence over Vermont Highway 100 to Pittsfield, Vt., thence over Vermont Highway 100 to Granville, Vt., and return. 3. From White River Junction, Vt., over U. S. Highway 5 to St. Johnsbury, Vt., and return. (Also, from Wells River, Vt., over U. S. Highway 302 to Groton, Vt., and return.) (Also, from Bradford, Vt., over Vermont Highway 25 to Waits River, Vt., and return.) 3. (a) from White River Junction, Vt., over U. S. Highway 5 to Brattleboro, Vt., and return. (Also, from junction of Vermont Highway 11 and U. S. Highway 5 over Vermont Highway 11 to Springfield, Vt., and return.)

Service is proposed to all intermediate points on all the above-described routes. Applicant is authorized to conduct regular route operations in New Jersey, New York, and Vermont, and irregular route operations in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. This application is directly related to Docket No. MC-F 6932, published in the June 18, 1958, issue of the FEDERAL REGISTER.

NOTE: Applicant has pending in MC-F 6932 application to acquire all intrastate and registered interstate operating authority of Hathorn's Transportation Co., Inc. Inasmuch as applicant operates in several States and would not be able to perform operations under a registered intrastate certificate, if the authority sought in MC-F 6932 is granted, applicant has filed the instant application for the purpose of requesting a

certificate of public convenience and necessity to cover the intrastate operating authority of Hathorn's Transportation Co., Inc. which is registered with this Commission in Docket No. MC 97732 under the provisions of the second proviso of section 206 (a) of the Interstate Commerce Act.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5 (a) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F 6717 (CAROLINA FREIGHT CARRIERS CORP.—PURCHASE—MARION FREIGHT LINES, INC.), published in the October 16, 1957, issue of the FEDERAL REGISTER on page 8209. Application filed June 12, 1958, for temporary authority under section 210a (b).

No. MC-F 6913 (HUSMANN & ROPER FREIGHT LINES, INC.—MERGER—SCHENCK TRUCK LINES, INC.), published in the June 5, 1958, issue of the FEDERAL REGISTER on page 3959. Supplement filed June 13, 1958, to show joinder of GUY ROPER, 14 Bridge Lane, Kirkwood 22, Mo., and W. H. HUSMANN, 1 Whitfield Lane, Clayton 24, Mo., as parties in control of HUSMANN & ROPER FREIGHT LINES, INC.

No. MC-F 6932, (correction), published in the June 18, 1958, issue of the FEDERAL REGISTER on page 4399. The vendor's name should have been shown as HATHORN'S TRANSPORTATION CO., INC. (EDMUND J. HAUS, RECEIVER).

No. MC-F 6936. Authority sought for purchase by LOVELACE TRUCK SERVICE, INC., 425 North Second Street, Terre Haute, Ind., of a portion of the operating rights of McLAREN TRUCK LINES, INC., 2 Ohio Street, Terre Haute, Ind., and for acquisition by M. F. NIEMEYER, also of Terre Haute, of control of such rights through the purchase. Applicants' attorney: Ferdinand Born, 1019 Chamber of Commerce Building, Indianapolis 4, Ind. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over a regular route between Indianapolis, Ind., and Terre Haute, Ind., serving no intermediate and certain off-route points; one alternate route for operating convenience only. Vendee is authorized to operate as a *common carrier* in Indiana, Illinois, and Missouri. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6937. Authority sought for purchase by DICK D. SPERRY, 907 F Street, Charles City, Iowa, of a portion of the operating rights of CORDLE CARTAGE CO., 1208 South Main Street, Charles City, Iowa. Applicants' attorney: Erwin Larson, Ellis Block, Charles City, Iowa. Operating rights sought to be transferred: *Household goods*, as de-

fined by the Commission, as a common carrier over irregular routes, between Nashua, Iowa, and points within 20 miles of Nashua, on the one hand, and, on the other, points in Illinois, Wisconsin, and Minnesota. Vendee is authorized to operate as a contract carrier in Iowa and Illinois. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6938. Authority sought for control by MIDWEST TRANSFER COMPANY OF ILLINOIS, 7000 South Pulaski Road, Chicago 29, Ill., of SERVICE TRANSFER & STORAGE, INC., 222 East Washington Street, Springfield, Ill., and for acquisition by MILTON D. RATNER, also of Chicago, of control of SERVICE TRANSFER & STORAGE, INC., through the acquisition by MIDWEST TRANSFER COMPANY OF ILLINOIS. Applicants' attorneys: Clarence D. Todd or Charles W. Singer, both of 1825 Jefferson Place NW., Washington 6, D. C. Operating rights sought to be controlled: General commodities, with certain exceptions including household goods and commodities in bulk, as a common carrier, over regular routes, between specified points in Wisconsin, between Minneapolis, Minn., and La Crosse, Wis., between La Crosse, Wis., and Chicago, Ill., and between Prairie du Chien, Wis., and Chicago, Ill., serving certain intermediate and off-route points; general commodities, except loose bulk commodities, livestock, Class A and B explosives, matches, currency, bullion, articles of value, and commodities exceeding ordinary loading facilities, between junction U. S. Highways 12 and 18, and junction U. S. Highway 18 and Wisconsin Highway 67, between junction U. S. Highway 18 and Wisconsin Highway 19 and junction Wisconsin Highway 19 and U. S. Highway 16, and between Chicago, Ill., and Milwaukee, Wis. (for the operation of empty equipment only), serving certain intermediate and off-route points; class A and B explosives as classified in the Commission's Rules and Regulations Governing the Transportation of Explosives and Other Dangerous Articles, between Rockford, Ill., and Camp McCoy, Wis., serving no intermediate points; general commodities, with certain exceptions including household goods and commodities in bulk, over irregular routes, between Minneapolis and St. Paul, Minn., on the one hand, and, on the other, the site of the Twin City Ordnance Plant, Mounds View Township, Ramsey County, Minn.; household goods as defined by the Commission, between points in Wisconsin, on the one hand, and, on the other, points in Minnesota, South Dakota, Illinois, Ohio, Michigan, and Indiana, and between points in Minnesota, on the one hand, and, on the other, points in Illinois and Michigan. MIDWEST TRANSFER COMPANY OF ILLINOIS is authorized to operate as a contract carrier in Illinois, Michigan, Indiana, Ohio, Pennsylvania, Kentucky, Wisconsin, Missouri, New York, Iowa, Maryland, New Jersey, West Virginia, Nebraska, and Minnesota. Application has been filed for temporary authority under section 210a (b).

No. MC-F 6939. Authority sought for purchase by EDWARD M. RUDE CAR-

RIER CORP., R. F. D. No. 1, Falling Waters, W. Va., of the operating rights and property of SEEGER BROS., Hillside Avenue, Kenil, N. J., and for acquisition by EDWARD M. RUDE, also of Falling Waters, of control of such rights and property through the purchase. Applicants' attorney: Kenneth J. McAuliffe, 233 Broadway, New York 7, N. Y. Operating rights sought to be transferred: Explosives, blasting supplies, chemicals, and military ordnance, as a contract carrier over a regular route between Kenil, N. J., and Aberdeen, Md., serving no intermediate points; class A and B explosives and similar dangerous articles, empty containers, and rejected shipments of such commodities, over irregular routes, between Kenil, N. J., and points within five miles of Kenil, on the one hand, and, on the other, points in Connecticut east of U. S. Highway 5, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Delaware, those in Maryland west of U. S. Highway 522 and east of Chesapeake Bay and the Susquehanna River, Virginia, those in West Virginia other than those on and east of U. S. Highway 522, and the District of Columbia; explosives and similar dangerous articles, between Kenil, N. J., and points within five miles of Kenil, on the one hand, and, on the other, points in Pennsylvania and New York, and certain points in Connecticut, Maryland, and West Virginia; empty containers for the commodities specified immediately above, from Bridgeport and Simsbury, Conn., and Port Ewen, N. Y., to Kenil, N. J., and points within five miles of Kenil; class A and B explosives and similar dangerous articles, and empty containers, between Port Ewen, N. Y., and points within five miles of Port Ewen, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, and those in New Jersey, except Kenil and points within five miles of Kenil. Vendee is authorized to operate as a contract carrier in New Jersey, Pennsylvania, West Virginia, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Delaware, Maryland, Virginia, Ohio, Kentucky, Tennessee, North Carolina, and the District of Columbia. Application has been filed for temporary authority under section 210a (b).

No. MC-F 6940. Authority sought for control by T. RUCKER GINN, 202 Clark Street, Covington, Ga., of ATLANTA-UNION POINT TRUCKING CO., INC., Box 237, Greensboro, Ga. Applicant's representatives: T. Rucker Ginn, 202 Clark Street, Covington, Ga., and D. C. Hemrick, Jr., Attorney, 504 Whitehead Building, Atlanta, Ga. Operating rights sought to be controlled: Operations under the Second Proviso of section 206 (a) (1) of the Interstate Commerce Act in the transportation of general commodities as a common carrier, over a regular route between Greensboro and Sparta, Ga., via Siloam and White Plains (State Highway No. 15). T. RUCKER GINN, doing business as MEADORS FREIGHT LINE, is authorized to operate

as a common carrier and also under the Second Proviso of section 206 (a) (1) of the Interstate Commerce Act in the State of Georgia. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6941. Authority sought for control and merger by GREAT SOUTHERN TRUCKING COMPANY, 2050 Kings Road, Jacksonville, Fla., of the operating rights and property of HUNT TRUCK LINES, INCORPORATED, 708 Whiting Street, P. O. Box 2309, Tampa 1, Fla., and for acquisition by RYDER SYSTEM, INC., JAR CORPORATION, JAR NO. 2 CORPORATION, J. A. RYDER and R. N. REEDY, all of 3401 Main Highway, Miami 33, Fla., of control of such rights and property through the transaction. Applicants' attorneys: Arthur H. Bernstein, Ryder System, Inc., P. O. Box 771, Coconut Grove Station, 3401 Main Avenue, Miami, Fla., and James M. Verner and William O. Turney, both of 2001 Massachusetts Avenue NW., Washington 6, D. C. Operating rights sought to be controlled and merged: General commodities, with certain exceptions including household goods and commodities in bulk, as a common carrier over regular routes, between Tampa, Fla., and Lake Placid, Fla., between Tampa, Fla., and Lake Wales, Fla., between Lakeland, Fla., and Brewster, Fla., between Plant City, Fla., and Mulberry, Fla., between Lakeland, Fla., and Bartow, Fla., between Auburndale, Fla., and Dundee, Fla., between Winter Haven, Fla., and Fort Meade, Fla., between Brewster, Fla., and Frostproof, Fla., between junction Florida Highway 79 and unnumbered highway and junction unnumbered highway and Florida Highway 8, and between Haines City, Fla., and Lake Placid, Fla., serving all intermediate and certain off-route points; general commodities, with certain exceptions including household goods and commodities in bulk, over irregular routes, between certain points in Florida. GREAT SOUTHERN TRUCKING COMPANY is authorized to operate as a common carrier in Florida, Georgia, Alabama, Tennessee, North Carolina, Virginia, and South Carolina. Application has been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-4791; Filed, June 24, 1958;
8:49 a. m.]

[Notice 41]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 20, 1958.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1 (c) (8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1 (d) (4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1 (e)) at any time but will not operate to stay commencement of the proposed operation unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-200 (Deviation No. 7), RISS & COMPANY, INC., 15 West 10th Street, Kansas City, Mo., filed June 12, 1958. Attorney for said carrier, Ivan E. Moody, 15 West 10th Street, Kansas City, Mo. Carrier proposes to operate as a common carrier by motor vehicle of general commodities, with certain exceptions, over a deviation route, between Dallas, Tex., and Fort Worth, Tex., as follows: from Dallas over the Dallas-Fort Worth Turnpike and access routes to Fort Worth and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Dallas, Tex., and Fort Worth, Tex., over the following pertinent route: from Dallas over Texas Highway 114 to Grapevine, Tex., thence over Texas Highway 121 to Fort Worth.

No. MC-32562 (Deviation No. 2), POINT EXPRESS, INC., P. O. Box 10007, Station C, Charleston, W. Va., filed June 16, 1958. Attorney for said carrier, George E. White, P. O. Box 10007, Station C, Charleston, W. Va. Carrier proposes to operate as a common carrier by motor vehicle of general commodities, with certain exceptions, over a deviation route, between Charleston, W. Va., and Cincinnati, Ohio, as follows: from junction U. S. Highways 60 and 35 at Charleston, over U. S. Highway 35 to junction U. S. Highway 50 at Chillicothe, Ohio, thence over U. S. Highway 50 to junction U. S. Highway 52 at Cincinnati and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Charleston, W. Va., and Cincinnati, Ohio over the following pertinent route: from Charleston over U. S. Highway 60 to Huntington, W. Va., and thence over U. S. Highway 52 to Cincinnati.

No. MC-72444 (Deviation No. 3), AKRON-CHICAGO TRANSPORTATION COMPANY, INC., 1016 Triplett Boulevard, Akron 16, Ohio, filed June 13, 1958. Attorney for said carrier, Charles R. Iden, 2200 First National Tower, Akron 8, Ohio. Carrier proposes to operate as a common carrier by motor vehicle of general commodities, with certain exceptions, over a deviation route, between Findlay, Ohio, and Wapakoneta, Ohio, as follows: from Findlay over

U. S. Highway 25 to Wapakoneta and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Findlay, Ohio, and Wapakoneta, Ohio, over the following pertinent route: from Findlay over U. S. Highway 25 to Beaver Dam, Ohio, thence over U. S. Highway 30N to Delphos, Ohio, thence over U. S. Highway 30S to Lima, Ohio, and thence over U. S. Highway 25 to Wapakoneta.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[P. R. Doc. 58-4792; Filed, June 24, 1958;
8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 27-76]

GREAT BEAR LAKE URANIUM MINES, LTD.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

JUNE 18, 1958.

I. Great Bear Lake Uranium Mines, Ltd. (issuer), a Canadian corporation with its principal place of business at 403 Kerr Block, Regina, Saskatchewan, Canada, filed with the Commission on December 20, 1954, under its prior corporate name, Jackpot Uranium Mines Limited, a notification and offering circular, and subsequently filed amendments thereto, relating to an offering of 300,000 shares of no par value common stock at \$1.00 per share for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation D promulgated thereunder.

II. The Commission has reasonable cause to believe that Regulation D is unavailable pursuant to Rule 501 (c) (2) in that the issuer and an affiliate, Albert Hartley, are subject to a temporary injunction and restraining order issued by the Supreme Court of the State of New York, County of Erie on April 18, 1958, enjoining, among other things, their activities in connection with the purchase and sale of securities.

III. It is ordered, Pursuant to Rule 509 (a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under section 3 (b) and Regulation D be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing; that, within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the

hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[P. R. Doc. 58-4779; Filed, June 24, 1958;
8:46 a. m.]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

MEASUREMENT OF VESSELS AND CARGOES AND RATES OF CHARGES OR TOLLS

NOTICE OF HEARING

Pursuant to section 12 (a), Public Law 358, 83d Congress, approved May 13, 1954 (68 Stat. 92, 33 U. S. C. sec. 988) notice is hereby given that the Administrator of the Saint Lawrence Seaway Development Corporation (hereinafter referred to as the Corporation) will conduct a hearing on the proposed rules for the measurement of vessels and cargoes and the proposed rates of charges or tolls to be levied by the Corporation and the Saint Lawrence Seaway Authority of Canada (hereinafter referred to as the Authority) for the use of the Saint Lawrence Seaway. The hearing will be held in the Interior Auditorium, 18th and C Streets NW., Washington, D. C., beginning 10:00 a. m. August 6, 1958. The hearing will be held from 10:00 a. m. to 12:30 p. m. and from 2:00 p. m. to 4:30 p. m. each day until concluded.

The Administrator has received the report of the Corporation's Tolls Committee (see 23 P. R. 897) and copies of it may be obtained upon application to the Corporation at its offices, 811 Vermont Avenue NW., Washington 25, D. C.

The question to be determined is the extent to which the recommendations contained in the report of the Corporation's Tolls Committee should constitute the substance of the agreement between the Corporation and the Authority with respect to the rules for the measurement of vessels and rates of charges or tolls to be levied for the use of the Saint Lawrence Seaway which it is contemplated will become the subject of an international agreement between the United States and Canada.

All persons desiring to appear and present evidence at the above described hearing shall submit to the General Counsel of the Corporation on or before July 25, 1958, the name of each prospective witness and a summary statement (in 10 legible copies) setting forth the substance of the evidence both oral and written that each witness proposes to present. The inclusion of an estimate of the time required for the oral presentation of evidence at the hearing will greatly facilitate the scheduling of witnesses.

The hearing will be conducted in accordance with Rules for the Conduct of Hearing which will be published prior to the date of the hearing.

[SEAL]

LEWIS G. CASTLE,
Administrator.

[P. R. Doc. 58-4778; Filed, June 24, 1958;
8:46 a. m.]